

***United States Court of Appeals
for the Second Circuit***



EXHIBITS

ORIGINAL

76-7262

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United States Court of Appeals
For the Second Circuit

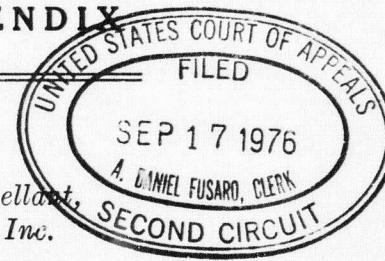
HAROLD S. LEE, ERIC LEE and LESTER LEE,
Plaintiffs-Appellees,
vs.

JOSEPH E. SEAGRAM & SONS, INC.,
Defendant-Appellant.

On Appeal from the United States District Court
for the Southern District of New York

EXHIBITS TO JOINT APPENDIX

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Plaintiffs' Exhibit 1

**Capitol City Liquor Company, Inc.'s Report and
Financial Statements, etc. (July 31, 1970)**

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CAPITOL CITY LIQUOR CO., INC.

REPORT AND FINANCIAL STATEMENTS
AND
SUPPLEMENTARY FINANCIAL INFORMATION
JULY 31, 1970

EXHIBIT F

EXHIBIT
DIST. COURT
N.Y.

1-18

PRICE WATERHOUSE & CO.

CAPITOL CITY LIQUOR CO., INC.FINANCIAL STATEMENTS
AND SUPPLEMENTARY INFORMATION
JULY 31, 1970CONTENTS

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PRICE WATERHOUSE & CO.

E 4

1707 L STREET, N.W.

WASHINGTON, D.C. 20036

September 8, 1970

To Joseph E. Seagram & Sons, Inc.

We have examined the balance sheet of Capitol City Liquor Co., Inc. as of July 31, 1970 and the related statement of income and retained earnings for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances, except as noted in the following paragraphs.

The accompanying financial statements are presented on a going concern basis and do not give effect to the proposed acquisition of the assets of Capitol City Liquor Co., Inc. by C.C.L.C., Inc., as described in Note 1.

Our engagement as auditors was not until after July 31, 1969. Therefore, we were not present to observe the physical inventory as of that date and we have not attempted to satisfy ourselves as to beginning inventories by other auditing procedures. Since the beginning inventory has a significant effect on the results of operations for the year, we do not express an opinion on the accompanying statement of income and retained earnings for the year ended July 31, 1970.

In our opinion, subject to the effect, if any, of settlement of the legal proceedings described in Note 4, and the transaction described in Note 1, the accompanying balance sheet presents fairly the financial position of Capitol City Liquor Co., Inc. at July 31, 1970, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Financial statements of Capitol City Liquor Co., Inc. for the year ended July 31, 1969 were not audited by us or other independent accountants and are included for comparative purposes only.

Price Waterhouse & Co.

CAPITOL CITY LIQUOR CO., INC.

BALANCE SHEET

ASSETS	July 31		LIABILITIES & STOCKHOLDERS' EQUITY	
	1970	1969	1970	1969
Current Assets:				
Cash	\$ 69,743	\$ 72,523	Accounts payable - trade	\$1,490,258
Accounts receivable - net of allowance of \$40,000 for doubtful accounts	1,182,970	1,143,494	Federal and District of Columbia income taxes payable	52,296,485
Investment in German Marks		19,013	District of Columbia alcoholic beverage control taxes payable	114,750
Merchandise inventory, at lower of cost or market	2,424,140	3,056,057	District of Columbia personal property taxes payable	87,800
Accounts receivable from officer, employees and other	3,309	286	Accrued payroll and commissions payable	62,965
Prepaid expenses and other current assets	25,549	13,769	Other current liabilities	61,913
Total Current Assets	3,705,711	4,305,142	Total Current Liabilities	28,153
				16,790
				17,137
				1,800,716
				2,578,413
Stockholders' Equity:				
Machinery, equipment and leasehold improvements, net of accumulated depreciation and amortization (Note 2)	45,843	46,542	Preferred stock - 1,500 shares authorized and unissued	755,000
			Common stock - 10,000 shares authorized and issued, no par value	755,000
			Capital surplus	223,764
			Retained earnings	972,074
				1,950,838
				1,773,271
Commitments and contingency (Note 4)				
Total Assets	\$3,751,554	\$4,351,684	Total Liabilities and Stock- holders' Equity	\$3,751,554
				\$4,351,684

CAPITOL CITY LIQUOR CO., INC.

E 6

STATEMENT OF INCOME AND RETAINED EARNINGS

	<u>For the years ended</u>	
	<u>July 31</u>	
	<u>1970</u>	<u>1969</u>
Revenues:		
Net sales	\$12,897,510	\$12,678,403
Other income	4,682	2,397
	<u>12,902,192</u>	<u>12,680,800</u>
Costs and expenses (Notes 2, 3 and 4):		
Cost of goods sold	11,522,686	11,446,454
Selling	523,435	480,199
General and administrative	483,754	452,300
	<u>12,529,875</u>	<u>12,378,953</u>
Income before income taxes	<u>372,317</u>	<u>301,847</u>
Taxes on income:		
Federal	172,400	142,161
District of Columbia	22,350	18,111
	<u>194,750</u>	<u>160,272</u>
Net income	<u>177,567</u>	<u>141,575</u>
Retained earnings - beginning of year	<u>794,507</u>	<u>652,932</u>
Retained earnings - end of year	<u>\$ 972,074</u>	<u>\$ 794,507</u>
Net income per share, based on 10,000 common shares outstanding	<u>\$17.76</u>	<u>\$14.16</u>

CAPITOL CITY LIQUOR CO., INC.NOTES TO FINANCIAL STATEMENTSJULY 31, 1970Note 1 - Acquisition of Company by C.C.L.C., Inc.

Under the terms of an executory agreement dated August 18, 1970, amended August 24, 1970, between the company and Joseph E. Seagram & Sons, Inc., the company will sell its property, assets and rights less stated liabilities at July 31, 1970 to a newly formed corporation, C.C.L.C., Inc. at an amount of approximately \$2,550,000. This amount is based, in part, on the accompanying balance sheet. The closing date for the sale is to be within sixty days from August 24, 1970. The sale is contingent upon C.C.L.C., Inc., meeting requirements for federal and local licensing.

Note 2 - Machinery, Equipment and Leasehold Improvements, at cost

	<u>July 31</u>	
	<u>1970</u>	<u>1969</u>
Machinery and equipment	\$ 30,705	\$ 27,538
Furniture and fixtures	15,255	12,524
Trucks	37,526	36,685
Auto	5,625	9,868
Leasehold improvements	<u>16,287</u>	<u>13,812</u>
	105,398	100,427
Accumulated depreciation and amortization	<u>59,555</u>	<u>53,885</u>
	<u>\$ 45,843</u>	<u>\$ 46,542</u>

Depreciation is computed under the straight-line method over the estimated useful lives of the assets of from 4 to 10 years.

Note 3 - Employee benefits

The company has a noncontributory pension plan which covers all salaried employees. The cost of the plan is the amount necessary to purchase a life annuity payable monthly

to an employee commencing upon his retirement date. As of July 31, 1970, all payments required to purchase annuities for past service have been made. The amount charged to expense in 1970 of \$26,077 and in 1969 of \$16,027 are net of cancellation credits resulting from employees terminating employment with the company.

In addition, all hourly employees are covered by a union agreement. The company's contributions to the union's Health and Welfare Trust are made in accordance with the agreement at stipulated amounts for each man hour worked by these employees. Such payments aggregated \$6,904 in 1970 and \$6,156 in 1969.

Note 4 - Commitments and Contingency

In 1961, the company entered into an agreement which expires in 1982 with Henry D. Lee (an officer and stockholder of the company) for the lease of its warehouse and office facilities. Under the terms of the lease, the company is required to make annual rental payments of \$42,000, in addition to which it is liable for insurance and real property taxes on the premises of approximately \$19,000 annually. The company also leases automobiles and computer equipment at an annual rental of approximately \$27,000. These leases expire in 1972 and 1975 respectively.

On May 22, 1970, a complaint was filed in the United States District Court for the District of Columbia alleging negligent operation of one of the company's trucks. The suit claims damages for \$300,000. This amount is in excess of the company's insurance coverage by \$100,000. Counsel for the company has filed an Answer to the charges which denies that the driver was negligent. At this time, the company has not provided any amount in the accompanying financial statements for the liability, if any, which may result from this court action.

PRICE WATERHOUSE & CO.

1707 L STREET, N.W.

WASHINGTON, D.C. 20036.

September 8, 1970

To Joseph E. Seagram & Sons, Inc.

The accompanying supplementary information, although not essential for a fair presentation of the financial position of Capitol City Liquor Co., Inc. as of July 31, 1970, is submitted as additional data. In our opinion, this supplementary information, as it relates to data as of July 31, 1970, is stated fairly in all material respects in relation to the balance sheet at that date, which is covered by our opinion presented in the first section of this report. The latter disclaims an opinion on the statement of income and retained earnings for the year ended July 31, 1970 for the reasons cited therein. Accordingly, we do not express an opinion on the five-year statements of income and selling, general and administrative expenses included herein as Exhibit A and B respectively, or other financial information included herein relating to such periods. Our examination was made primarily for the purpose of forming an opinion on the balance sheet as of July 31, 1970, and included such tests of the accounting records, from which the supplementary information for the year then ended was compiled, and such other auditing procedures as we considered necessary in the circumstances.

Price Waterhouse & Co.

History and stockholders of company

Capitol City Liquor Co., Inc. (formerly House of Stover, Inc.) was incorporated in September 1941 in the State of Delaware. Prior to that date, the company operated as a liquor division of Holly Stover, Inc., a commissioned merchant. In 1941, the company became a wholly-owned subsidiary of Belvedere Corporation, a subsidiary of Joseph E. Seagram & Sons, Inc. Subsequently, Calvert Distillers Company acquired all the outstanding common stock from Belvedere. Calvert later sold 49.9% of their holding to Joseph E. Seagram & Sons, Inc. and 50.1% equally to Nathaniel Tyler and Henry D. Lee. In 1960, Henry D. Lee acquired the Seagrams and Tyler holdings, and became the sole stockholder.

Present stockholdings are as follows:

	<u>Shares</u>	<u>Percentage</u>
Henry D. Lee	3,047	30.47
Harold S. Lee	2,690	26.90
Arthur Lee (Son of Henry)	1,827	18.27
Eric Lee (Son of Harold)	1,155	11.55
Lester Lee (Son of Harold)	1,155	11.55
Alan Lee (Son of Arthur)	63	.63
Susan Lee (Daughter of Arthur)	63	.63
	<hr/> <u>10,000</u>	<hr/> <u>100.00</u>

Highlights of operations

Five year statements of income and selling, general and administrative expenses are included as Exhibits A and B, respectively. In addition, a listing of the company's inventory product lines is included as Exhibit C.

With respect to more recent operations, the company, during the year ended July 31, 1970, experienced a 2% increase in net sales. This increase was due to increased sales volumes (resulting from a more expanded product line) and increased sales prices. At the request of the James B. Beam Co., the company will discontinue serving as a distributorship for Beam products, effective October, 1970.

This product line has, in the past, contributed significantly to the sales of the company, i.e., sales exceeded \$1,000,000 in each of the years 1969 and 1970. No reason was given to Capitol City Liquor Co., for this action.

Major competitors (and related information) which are located within the District of Columbia are as follows:

<u>Name of Wholesalers</u>	Information Obtained From Dun and Bradstreet		
	<u>Business Commenced</u>	<u>Sales</u> (000)	<u>Number of Employees</u>
Austin, Nichols & Co., Inc.	(2)	(2)	7
Beitzell & Co., Inc.	1919	\$20-25,000	65
Sterling Liquor Distributors	(1)	(1)	(1)
Washington Wholesale Liquor Co., Inc.	1946	6,000	47
Forman Bros., Inc.	1946	16,000	85
Globe Distributing Company	1933	12,000	40
House of Wines Incorporated	1942	2,900	35
International Distributing Corporation			
Merit Division }	1969	8,000	30
Key Division }			
Lawrence D. Rose & Co.	(2)	(2)	(2)
Kronheim, Milton S. & Co., Inc.	1933	\$25-26,000	110
Montebello Liquors, Inc.	1933	10,000	70
Middle Atlantic Distributors	1942	\$6-7,000	40
Majestic Distilling Co.	(1)	(1)	(1)
George M. Mason Co.	(1)	(1)	(1)

(1) Information not available at the date of this report.

(2) Information not included in report received from
Dun & Bradstreet.

At July 31, 1970, the company had 63 officers and employees, categorized as follows:

Officers - 6
Office employees - 9
Salesmen - 16
Warehouse personnel - 32

Cash and working capital position

The company's cash and working capital position at the end of each of the past five years was as follows:

	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>
Cash	\$ <u>67,314</u>	\$ <u>76,884</u>	\$ <u>67,650</u>	\$ <u>72,523</u>	\$ <u>69,743</u>
Current position:					
Current assets	\$3,132,779	\$3,325,470	\$3,069,005	\$4,305,142	\$3,705,711
Current liabilities	<u>(1,799,098)</u>	<u>(1,888,278)</u>	<u>(1,487,912)</u>	<u>(2,578,413)</u>	<u>(1,800,716)</u>
	<u>\$1,333,681</u>	<u>\$1,437,192</u>	<u>\$1,581,093</u>	<u>\$1,726,729</u>	<u>\$1,904,995</u>
Working Capital Ratio	<u>1.74:1</u>	<u>1.76:1</u>	<u>2.06:1</u>	<u>1.67:1</u>	<u>2.06:1</u>

In the fiscal year ending July 31, 1970, the minimum cash balance occurred at August 31, 1969 in the amount of \$65,045. The maximum cash balance occurred at May 31, 1970, in the amount of \$241,474.

Accounts receivable - trade

Accounts receivable at July 31, 1970, aggregated \$1,222,970 which represents the total of approximately 780 open accounts. Included in this amount are the following receivables from major suppliers:

Seagram - Distillers Company	\$ 41,159
General Wine and Spirits Company	45,822
Four Roses Distillers Company	12,598
James B. Beam Distilling Company	<u>1,176</u>
	<u>\$100,755</u>

The above items represent the major debit balances in trade accounts payable which collectively amount to \$103,000. These balances were reclassified for financial statement purposes.

The company maintains sales offices at their warehouse location. Salesmen are paid on a straight commission basis. The company's sales terms do not include provision for cash discounts and, in addition, require payment by the 15th of the month following the issuance of a statement of account at the end of each month. This procedure permits a maximum extension of credit of 45 days. Accounts not collected by the 20th of the following month are placed on a C.O.D. basis until collected. Concurrent with the placement of accounts on a C.O.D. basis, the company notifies the Alcoholic Beverage Control Board as to the delinquent accounts.

An estimate of the aging of trade receivables at July 31, 1970 is as follows:

<u>0 - 45 days</u>	<u>Over 45 days</u>	<u>Total</u>
\$1,066,000	\$157,000	<u>\$1,223,000</u>

Through August 31, 1970, \$878,000 of trade accounts receivable had been collected of which \$16,000 is applicable to "Over 45 days" accounts.

The three largest accounts included in "Over 45 days" are as follows: (all over \$7,500)

	<u>Balance</u>	<u>Placed on C.O.D.</u>
Apex Liquors, Inc.	\$20,507	January 1970
Clark's Liquors, Inc.	17,145	April 1970
Star Liquors	<u>46,044</u>	August 1969
	<u>\$83,696</u>	

Both Apex and Clark Liquors are making monthly remittances against their respective balances. The company and Star Liquors have not as yet reached agreement as to a plan of liquidation of the amount owing Capitol. All three of these companies are presently purchasing from Capitol on a C.O.D. basis. The company is currently reducing the amount due from Star Liquors by offsetting sales promotion discounts which otherwise would be available to them. With respect to those delinquent accounts under \$7,500, the company is receiving periodic payments or, in some cases, has filed suits to recover these amounts.

Listed below is the bad debt write-off experience for the last five years.

<u>Year</u>	<u>Amount</u>	<u>Percentage of sales</u>
1970	\$ 1,877	.01
1969	25,574	.2
1968	54,059	.4
1967	12,898	.1
1966	3,830	.03

The 1968 write-off was attributable, for the most part, to two of the company's customers who went out of business in that year, i.e., Becker Liquors and Singer Liquors. In addition, a portion of

the write-off was due to business failures resulting from the civil disturbances in Washington, D.C. during this period, the effect of which extended into 1969.

In management's opinion, the allowance of \$40,000 for doubtful accounts is adequate to provide for any bad debt losses related to trade receivables as of July 31, 1970.

Merchandise inventory

The company values its inventory on a first-in, first-out basis. The year end balances in inventory and turnover statistics for the past five years follow:

<u>Year</u>	<u>Amount</u>	<u>Inventory Turnover (1)</u>
1970	\$2,424,140	4.2
1969	3,056,057	4.6
1968	1,899,942	5.7
1967	1,926,035	5.8
1966	1,922,860	6.5

(1) Cost of Sales/Average Inventory

Purchases from major suppliers during the past two years follow:

	<u>1970</u>	<u>1969</u>
Seagram - Distillers Company	\$4,824,399	\$6,242,411
General Wine and Spirits Company	1,036,445	1,144,867
Four Roses Distillers Company	581,891	694,039
Frankfort Distillers Company	540,589	459,066
James B. Beam Distilling Company	1,058,895	1,068,210
J. M. McCunn & Company	246,602	254,777
McKesson Liquor Company	232,785	340,692
Paul Masson	382,513	402,321

Prepaid expenses and other current assets

	<u>July 31</u>	
	<u>1970</u>	<u>1969</u>
Prepaid insurance	\$23,123	\$11,415
Prepaid licenses and taxes	2,028	1,900
Prepaid promotion expense	111	-
Gasoline inventory	<u>287</u>	<u>454</u>
	<u>\$25,549</u>	<u>\$13,769</u>

The company's insurance coverage in force at July 31, 1970 was as follows:

<u>Description of policy</u>	<u>Face amount of coverage</u>
Fire and Lightning and extended coverage (policies expire 4/15/71):	
Newark Insurance Company	\$1,000,000
National Union Fire Insurance Company	450,000
Signal Insurance Company of Los Angeles	250,400
Bowles and Company	100,000
New Hampshire Insurance Company	375,200
Bowles and Company	<u>274,400</u>
	<u>\$2,450,000</u>

Difference in Condition (expires 4/15/73):

National Union Fire Insurance Company	
Warehouse	\$300,000
Other location except in transit	20,000
In transit - common or public carrier	50,000
In transit - owned vehicle	<u>20,000</u>
	<u>\$390,000</u>

Accounts Receivable (policies expire 11/5/72):

Sun Insurance Company	\$ 875,000
Aetna Insurance Company	<u>875,000</u>
	<u>\$1,750,000</u>

Workmen's Compensation (expires 12/1/70)

Lumbermen's Mutual Casualty Company	<u>Statutory</u>
-------------------------------------	------------------

E 17
Face amount
of coverage

Description of policy

Automobile and Truck (expires 12/9/72)
Lumbermen's Mutual Casualty Company

Comprehensive Auto Liability

Bodily injury-
\$200,000/\$1,000,000

Property Damage

\$50,000 each occurrence

Auto Medical Expenses

\$2,000 each person
(commercial)

\$5,000 each person
(private)

Uninsured Motorists

\$10,000/\$20,000

Automobile Physical Damage Hazards

Any one owned auto. -ACV
All owned autos-
1 location-\$100,000

General Liability Hazards
Warehouse

Bodily injury-
\$200,000/\$1,000,000

Property damage-
\$50,000

Contractual Liability

Bodily injury-
\$200,000/\$1,000,000

Property damage-
\$50,000

Personal Injury Liability

\$200,000/\$1,000,000

Comprehensive Personal Insurance
covering:

Liability-\$200,000
each occurrence

Henry D. Lee
Arthur L. Lee
Lester A. Lee
Eric R. Lee
Harold S. Lee

Medical payments -
\$500/\$25,000
Property damage - \$250

Blanket Crime (expires 12/5/72)

Lumbermen's Mutual
Casualty Company

\$150,000

Business Interruption (expiring
7/22/71 and 11/26/71)

National Union Fire Insurance Co.

\$500,000 (which
includes:
sprinkler leakage
vandalism and malicious
mischief
fire and lightning
and extended coverage)

Federal Insurance Company

\$125,000 (which includes:
sprinkler leakage
extended coverage
vandalism and malicious
mischief
fire and lightning and
extended coverage)

Group Hospitalization (year to year
renewal)

State Mutual Life Assurance Co. of
America

All non-union employees
having completed 6 months
service.

Accidental Death and Dismemberment
(year to year renewal)

Connecticut General
Life Insurance Co.

All non-union employees

Machinery, equipment and leasehold improvements

The company uses the straight-line method in depreciating all fixed assets and leasehold improvements. Estimated useful lives assigned to these assets are as follows:

Machinery and equipment - 10 years

Furniture and fixtures - 6 to 10 years

Trucks and auto - 4 years

Leasehold improvements - 10 years

A summary of fixed assets, by year of acquisition, is as follows:

<u>Class</u>	<u>Fiscal year acquired</u>		<u>Accumulated depreciation and amortization</u>	<u>Net book value July 31, 1970</u>
Machinery & equipment	1965 and prior	\$13,436	\$11,464	\$ 1,972
	1966	1,559	752	807
	1967	3,756	1,408	2,348
	1969	8,787	1,514	7,273
	1970	<u>3,167</u>	<u>138</u>	<u>3,029</u>
		<u>30,705</u>	<u>15,276</u>	<u>15,429</u>
Furniture and fixtures	1969 and prior	\$ 9,680	\$ 7,870	\$ 1,810
	1970	<u>5,575</u>	<u>703</u>	<u>4,872</u>
		<u>15,255</u>	<u>8,573</u>	<u>6,682</u>
Trucks	1967	33,138	24,718	8,420
	1970	<u>4,388</u>	<u>82</u>	<u>4,306</u>
		<u>37,526</u>	<u>24,800</u>	<u>12,726</u>
Automobile	1968	<u>5,625</u>	<u>3,696</u>	<u>1,929</u>
Leasehold improvements	1966 and prior	\$ 8,058	\$ 5,967	\$ 2,091
	1967	1,370	527	843
	1968	2,840	365	2,475
	1969	1,544	249	1,295
	1970	<u>2,475</u>	<u>103</u>	<u>2,372</u>
		<u>16,287</u>	<u>7,211</u>	<u>9,076</u>

Accounts payable - trade

The major vendors included in accounts payable - trade were as follows:

Seagram - Distillers Company	\$ 859,332
General Wine and Spirits Company	218,959
Four Roses Distillers Company	31,222
Frankfort Distillers Company	99,199
James B. Beam Distilling Co.	73,626
J. M. McCunn and Co.	33,970
McKesson Liquor Company	53,732
Paul Masson	25,205
Park Avenue Imports	32,325
Browne - Vintners	16,678
Other (all under \$10,000)	<u>46,010</u>
	<u>\$1,490,258</u>

Accrued payroll and commissions payable

Accrued payroll	\$22,678
Commissions	<u>5,475</u>
	<u>\$28,153</u>

Included in accrued payroll at July 31, 1970 are bonuses of \$19,193 to be paid in August and September, 1970. Of this amount, \$12,800, equivalent to two months salary, represents officers' bonuses. The remainder is attributable to bonuses for office, warehouse and sales personnel which vary in amount from one week to one month per employee. The practice of paying bonuses has been in effect for a number of years.

Salesmen are paid on a straight commission basis. The amount of commission to be paid is determined by segregating sales into two primary groups -- bar sales and packaged goods sales. A rate of 4% is earned on bar sales. For packaged goods sales the company categorizes

commissions into 13 sub-groupings, with commission rates varying from 20¢ to \$6.00 per case. Salesmen draw on their commissions during the month usually on or about the 15th and the 30th of each month.

Federal and District of Columbia income taxes payable

Federal income tax returns of the company were last examined by Internal Revenue Service (I.R.S.) for the fiscal year ended July 31, 1966. No additional assessment of taxes was made by the I.R.S. as a result of this examination. District of Columbia (D.C.) income tax returns have not been examined in recent years. D. C. income tax regulations provide for a rate of tax on taxable income of 6%. The amounts payable at July 31, 1970, were as follows:

Federal	\$ 92,400
D.C.	<u>22,350</u>
	<u>\$114,750</u>

Since inception, the company has been on the direct write-off method for the deduction of bad debts for federal income tax purposes. Consequently, the allowance for doubtful accounts of \$40,000, which was established for book purposes over the years 1948 through 1955, has not been deducted for income tax purposes. The accompanying financial statements do not include recognition of the tax benefit of the allowance for doubtful accounts which may be realized if the company were to apply for and be granted the authority for changing to the reserve method.

At July 31, 1970 the company does not have any net operating losses or other tax credits which may be carried over as an offset against future federal or D. C. taxable income. In recent years, net income before income taxes as shown by the books of account agrees with taxable income as reported in its federal income tax return.

District of Columbia alcoholic beverage taxes payable

Alcoholic beverage taxes in fiscal year ended July 31, 1970 aggregated \$1,240,663, of which \$87,800 remained unpaid at year end. The tax rates applied to gallons relieved from inventory are as follows:

	<u>Per Gallon</u>
Wines 14% and under	\$.15
Wines over 14%	.33
Champagne & Sparkling Wines	.45
Spirits	2.00

The Alcoholic Beverage Control Board (ABC) requires that a physical inventory be taken at the end of each monthly period. The amount of tax based on withdrawals is payable on or about the 15th of the following month. The last ABC review covered the period of November 1, 1968 through November 30, 1969. As a result of this review the company was required to pay an additional tax of \$1,890.

District of Columbia personal property tax payable

Personal property taxes were assessed at a rate of \$2.40 per \$100 of assessed value on tangible personal property of the company at July 1, 1970. The amount payable of \$62,965 at July 31, 1970 is to be paid in equal installments on September 15, 1970 and March 15, 1971.

Other current liabilities:

Composition of this caption at July 31, 1970 is as follows:

Employee withholdings	\$ 6,446
Discounts payable	3,913
Accrued vacations (union & non-union)	3,397
Accrued payroll and sales taxes	2,149
Accrued real estate taxes	<u>885</u>
	<u>\$16,790</u>

The company, as a part of their regular sales promotions, offers to all customers various discounts from normal sales prices. Discounts are calculated at the end of a promotion period. Amounts due are liquidated as credits to accounts receivable rather than cash disbursements. Both categories of vacations (i.e., union and non-union) represent the remaining amount of vacations earned during the year ended July 31, 1970 and not yet taken.

Pension plan

On July 18, 1958 the company established a group annuity plan which provides a life annuity for the benefit of non-union employees. The plan does not require contributions of the employees and does not provide for any vested benefits until the date of retirement, unless the plan is cancelled, in which case all annuities purchased vest with the employee.

The amount of annuity to be received after attainment of the normal retirement age of 65 is determined by aggregating the future service and past service annuity units purchased by the company at the following rates:

Future service - 1% of \$4,200 of annual earnings, plus 1-1/2% of the annual earnings in excess of \$4,200.

Past service - 1/2 of 1% of the employee's annual earnings at May 1, 1958, multiplied by the number of complete years of service prior to May 1, 1958, exclusive of the first two years service and any service prior to the employee's twenty-fifth birthday.

All past service annuity benefits were purchased on or before May 1, 1968.

Union agreement

The company is a party to an agreement dated April 13, 1970 between the Association of D.C. Liquor Wholesalers, Inc. and the Drivers, Chauffeurs, and Helpers Local No. 639 of Washington, D.C., a local union affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. The term of the agreement is March 1, 1970 to and including February 28, 1973.

Certain provisions of the Agreement follow:

Wages

	<u>March 1, 1970</u> (per hour)	<u>March 1, 1971</u> (per hour)	<u>March 1, 1972</u> (per hour)
Drivers - Tractor-Trailer	\$3.55	\$3.75	\$3.95
Drivers - Straight and Panel	\$3.40	\$3.60	\$3.80
Helpers and Warehousemen	\$3.30	\$3.50	\$3.70

Vacations

For new hires the agreement provides that union employees shall be entitled to receive the following vacations with pay:

- 1 week's vacation for 1 year of service.
- 2 weeks' vacation for 3 years of service.
- 3 weeks' vacation for 10 years of service.
- 4 weeks' vacation for 20 years of service.

Any employee hired prior to the date of the agreement will receive 2 weeks' vacation after 2 years of service in accordance with the prior union agreement. For years of service in excess of two, vacation benefits are similar to those shown above.

Health and Welfare Contributions

Beginning April 1, 1970, health and welfare contributions as stated in the agreement were established at 17¢ per hour of work in each payroll week by the employee, temporary or regular, covered by the Agreement. Such payments will be increased to 22¢ per hour effective March 1, 1971.

Commitments

The company has entered into the following lease agreements:

<u>Property leased</u>	<u>Lessor</u>	<u>Lease expires</u>	<u>Annual rental</u>
Building and warehousing facilities	Henry D. Lee Washington, D.C.	1982	\$42,000
General Electric electronic data processing equipment	Systems Capitol Corporation Philadelphia, Pa.	1975	\$20,000
Automobiles - (four)	Senate Auto Leasing Washington, D.C.	1972	\$ 6,885

The company has the option to purchase the electronic data processing equipment after the completion of the fourth year of its lease. The purchase price would be determined by reducing the aggregate value of the equipment (which is \$94,650) by an amount of 40% of rents paid but not to exceed 50% of the aggregate value of the equipment. The company may terminate the lease at anytime upon at least 90 days prior written notice. In the event the lease is terminated, the lessee is required to pay all remaining rentals for the current term, discounted at the then average prime rate of the four largest New York City banks, compounded monthly.

CAPITOL CITY LIQUOR CO., INC.
FIVE YEAR STATEMENT OF INCOME

	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>					
Net Sales	<u>\$12,311,364</u>	<u>100.00%</u>	<u>\$12,356,069</u>	<u>100.00%</u>	<u>\$12,112,615</u>	<u>100.00%</u>	<u>\$12,678,403</u>	<u>100.00%</u>	<u>\$12,897,510</u>	<u>100.00%</u>
Cost of Goods Sold:										
Inventory - beginning of the year	1,536,650	12.48	1,922,860	15.56	1,926,035	15.90	1,899,942	14.98	3,056,057	23.69
Purchases and freight in	<u>11,664,814</u>	<u>94.75</u>	<u>11,261,253</u>	<u>91.14</u>	<u>10,936,569</u>	<u>90.29</u>	<u>12,602,569</u>	<u>99.40</u>	<u>10,590,769</u>	<u>84.44</u>
Amount available for sale	13,201,464	107.23	13,184,113	106.70	12,882,604	106.19	14,502,511	114.38	13,646,826	108.13
Inventory - end of the year	<u>(1,922,860)</u>	<u>(15.62)</u>	<u>(1,926,035)</u>	<u>(15.58)</u>	<u>(1,899,942)</u>	<u>(15.68)</u>	<u>(3,056,057)</u>	<u>(24.10)</u>	<u>(2,424,140)</u>	<u>(18.79)</u>
Cost of goods sold	<u>11,278,604</u>	<u>91.61</u>	<u>11,258,078</u>	<u>91.12</u>	<u>10,962,662</u>	<u>90.51</u>	<u>11,446,454</u>	<u>90.28</u>	<u>11,572,686</u>	<u>89.34</u>
Gross Profit on Sales	<u>1,032,760</u>	<u>8.39</u>	<u>1,097,991</u>	<u>8.88</u>	<u>1,149,953</u>	<u>9.49</u>	<u>1,231,949</u>	<u>9.75</u>	<u>1,374,824</u>	<u>10.66</u>
Selling Expense	<u>378,821</u>	<u>3.08</u>	<u>416,982</u>	<u>3.37</u>	<u>428,739</u>	<u>3.54</u>	<u>480,199</u>	<u>3.79</u>	<u>523,435</u>	<u>4.06</u>
General and Administrative Expense	<u>362,970</u>	<u>2.95</u>	<u>410,219</u>	<u>3.32</u>	<u>452,079</u>	<u>3.73</u>	<u>452,300</u>	<u>3.57</u>	<u>483,754</u>	<u>3.75</u>
Total Operating Expenses	<u>741,791</u>	<u>6.03</u>	<u>827,201</u>	<u>6.69</u>	<u>880,818</u>	<u>7.22</u>	<u>932,499</u>	<u>7.36</u>	<u>1,007,189</u>	<u>7.81</u>
Net Profit From Operations	<u>290,969</u>	<u>2.36</u>	<u>270,790</u>	<u>2.19</u>	<u>269,135</u>	<u>2.22</u>	<u>299,450</u>	<u>2.36</u>	<u>367,635</u>	<u>2.85</u>
Other Income (Expense)	<u>(8,638)</u>	<u>(.07)</u>	<u>(2,892)</u>	<u>(.02)</u>	<u>1,493</u>	<u>.01</u>	<u>2,397</u>	<u>.02</u>	<u>4,682</u>	<u>.04</u>
Income Before Income Taxes	<u>282,331</u>	<u>2.29</u>	<u>267,898</u>	<u>2.17</u>	<u>270,428</u>	<u>2.23</u>	<u>301,847</u>	<u>2.38</u>	<u>372,317</u>	<u>2.89</u>
Taxes on Income - Federal District of Columbia	<u>122,114</u>	<u>.99</u>	<u>114,335</u>	<u>.93</u>	<u>123,535</u>	<u>1.02</u>	<u>142,161</u>	<u>1.12</u>	<u>172,400</u>	<u>1.34</u>
	<u>14,117</u>	<u>.11</u>	<u>13,295</u>	<u>.11</u>	<u>13,521</u>	<u>.11</u>	<u>16,111</u>	<u>.14</u>	<u>22,350</u>	<u>.17</u>
	<u>136,231</u>	<u>1.10</u>	<u>127,730</u>	<u>1.04</u>	<u>137,056</u>	<u>1.13</u>	<u>160,272</u>	<u>1.26</u>	<u>194,750</u>	<u>1.51</u>
Net Income	<u>\$ 146,100</u>	<u>1.19%</u>	<u>\$ 140,168</u>	<u>1.13%</u>	<u>\$ 133,372</u>	<u>1.10%</u>	<u>\$ 141,575</u>	<u>1.12%</u>	<u>\$ 177,567</u>	<u>1.38%</u>
Net Income per share	<u>\$14.61</u>		<u>\$14.02</u>		<u>\$13.33</u>		<u>\$14.16</u>		<u>\$17.76</u>	
Book Value per share	<u>\$135.82</u>		<u>\$149.84</u>		<u>\$163.17</u>		<u>\$177.33</u>		<u>\$195.09</u>	E

BEST COPY AVAILABLE

CAPITOL CITY LIQUOR CO., INC.

FIVE YEAR STATEMENT OF SELLING AND GENERAL AND ADMINISTRATIVE EXPENSES

	1966	1967	1968	1969	1970	
<u>Selling Expenses</u>						
Salaries - salesmen	\$179,283	47.33%	\$188,224	45.14%	\$182,676	42.61%
Delivery expense including salaries, stock room and delivery	158,812	41.92	181,772	44.07	197,928	46.17
Licenses and taxes	3,388	.89	3,526	.85	2,857	.57
Union welfare dues - warehouse	4,623	1.22	5,250	1.26	3,478	.81
Depreciation - machinery and equipment	1,476	.39	1,783	.43	1,858	.43
Depreciation - trucks and automobile	8,627	2.28	5,169	1.24	10,476	2.44
Miscellaneous selling expense	22,612	5.92	29,248	7.01	29,466	6.87
	<u>\$378,821</u>	<u>100.00%</u>	<u>\$416,982</u>	<u>100.00%</u>	<u>\$428,739</u>	<u>100.00%</u>
<u>General and Administrative Expenses</u>						
Salaries - officers	\$101,500	27.96%	\$110,614	26.96%	\$110,614	24.47%
Salaries - office	53,332	14.69	58,272	14.21	57,724	12.77
Personal property tax	39,781	10.96	46,209	11.29	49,143	10.87
Insurance expense	30,800	8.49	33,776	8.23	31,561	6.98
Rent expense	38,000	10.47	42,000	10.24	42,000	9.29
Office expense	16,018	4.21	15,545	3.80	17,029	3.77
Pension plan	26,198	7.22	27,421	6.78	29,005	5.53
Payroll taxes	14,264	3.93	20,450	4.99	16,163	3.58
Real estate taxes	7,700	2.12	9,250	2.25	9,935	2.20
Donations	5,985	1.65	5,980	1.46	10,435	2.31
Membership fees	3,934	1.09	4,157	1.01	5,169	1.14
Professional fees	3,862	1.06	3,000	.73	3,950	.65
Light and heat	4,902	1.35	5,760	1.40	5,929	1.31
Stationery and printing	5,357	1.48	6,808	1.66	6,763	1.49
Telephone	5,008	1.38	5,303	1.29	5,014	1.11
Amortization - leasehold improvements	717	.19	928	.23	968	.21
Depreciation - furniture and fixtures	864	.24	545	.13	621	.14
Postage	898	.25	803	.20	997	.22
Bad debt expense	3,830	1.06	12,898	3.14	54,059	11.96
	<u>\$362,970</u>	<u>100.00%</u>	<u>\$410,219</u>	<u>100.00%</u>	<u>\$452,079</u>	<u>100.00%</u>

E

27

EXHIBIT C

E 28

CAPITOL CITY LIQUOR CO., INC.

LISTING OF INVENTORY
AND
QUANTITIES SOLD DURING FISCAL YEAR 1970
(BY PRODUCT LINE)

* * *

E 29

Plaintiffs' Exhibit 4

Memorandum from T. P. Hawe to H. Fieldsteel
(November 22, 1972)

PLAINTIFF
DEFENDANT

TT's 4

E 30

Mr. Harold Fieldsteel

Thomas P. Hawe

Eddy & Fisher

EXHIBIT
S. S. DEPT. COURT
S. C. OF N. Y.

November 22, 1972

~~4-22~~

Arthur Rubin and his accountant visited with me November 21. I reviewed the status of negotiations with Larry Paley and reviewed the projections on the new Eddy & Fisher which I summarize below:

1. The agreement with Paley is a consideration of book value + \$275,000 goodwill for a total price of some \$1,075,000. \$75,000 of the goodwill will be paid in five annual installments of \$15,000.
2. Final approval from Bacardi is pending their review of the pro-forma new Eddy & Fisher financial statements.
3. Assuming Bacardi approval, the deal is excellent for Rubin generating \$50,000 a year in post tax income on a \$200,000 equity investment.
4. The \$1,000,000 purchase price required at closing is expected to be financed as follows:

Equity \$200,000

Long-term Bank Debt 500,000

Short-term Boan Paley 300,000

Richard Goeltz will organize the \$500,000 bank loan which I expect will present no difficulty.

BEST COPY AVAILABLE

The short-term loan from Paley is self-liquidating in that the deal is an asset transaction and Eddy & Fisher collects \$1,000,000 in receivables during January against which \$600,000 of payables ordinarily become due for payment.

5. On a continuing basis, I agreed that Seagram will support the acquisition by granting credit extension of \$300,000 (to be reduced \$60,000 a year for five years) to be utilized for no more than three months a year and is not to be used as a substitute for existing short-term working capital financing.

I feel quite confident the deal will go through as planned in January.

/gd

cc: Mr. Jack Yogan

Plaintiffs' Exhibit 7

**Letter Agreement Between Capitol City Liquor Company,
Inc. and Joseph E. Seagram & Sons, Inc. (August 18, 1970)**

ITS 7

TELEPHONE
572-7191
AREA CODE 212

Joseph E. Seagram & Sons, Inc. E 33

EXECUTIVE OFFICES

375 PARK AVENUE • NEW YORK, N. Y. 10022

Distillers Since 1857

August 18, 1970

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

Capitol City Liquor Company, Inc.
645 Taylor Street N. E.
Washington, D. C.

7-72

Dear Sirs:

We are writing with reference to our understanding and agreement regarding the purchase of your assets. In consideration of the mutual promises herein contained, it is agreed and covenanted as follows:

1. The purchase price for all of your property, assets and rights, less stated liabilities, shall be \$2,513,000 plus or minus any change in book value, between April 30, 1970 and July 31, 1970. Said increase or decrease in book value shall be computed by Price Waterhouse in accordance with generally accepted accounting principles consistent with your past reporting procedures.
2. Purchaser shall receive a lease on the building presently occupied by Seller for 5 years, renewable at Purchaser's option for an additional 5 years, on a net lease basis at a monthly rental of \$5,000; Lessee to be liable for all taxes.
3. Purchaser shall pay the consideration described above in cash at the time of closing.
4. Seller and each of its principals warrant that they will not compete in the wholesale liquor business for a period of 5 years in any areas now served by Seller.
5. From the date of this Agreement until the closing date Seller will, to the best of its ability, conduct its business diligently in substantially the same manner as heretofore conducted and use

(a)

their best efforts to preserve intact its sales force and its relationship with customers and suppliers. In essence, the Seller will act as Trustee in continuing said business for the benefit of Purchaser until the day of closing.

6. To induce Purchaser to acquire and pay for the property, assets and rights to be conveyed herein, Seller warrants, represents and guarantees that:
 - a. All Federal, state and local tax returns and reports required by law to have been filed have been lawfully and properly prepared and duly filed and all taxes, assessments and fees have been paid.
 - b. There are no lawsuits, actions or proceedings in progress, pending or threatened against Seller.
 - c. Seller has no liabilities or obligations of any nature, contingent or otherwise, other than (1) those stated in its audited balance sheet for July 31, 1970, and (2) those incurred in the ordinary course of business between July 31, 1970 and August 31, 1970.
 - d. Seller has good and marketable title to the property, assets and rights to be conveyed herein and has authority to make said conveyance.
 - e. The inventory as stated in the audited financial statements of July 31, 1970 will be retained intact thereafter except for purchases and sales in the ordinary course of business.
 - f. Seller will continue to exist as a corporate entity for a period of not less than six months following this conveyance of its property, assets and rights.
 - g. The accounts receivable as of August 31, 1970 will be fully collectable in the ordinary course of business except to the extent of the reserve for bad debts as of July 31, 1970.

7. From the date hereof, through and including the closing date, Seller will not:

- a. Engage in any sales or operating activities which are inconsistent with either the local laws and regulations of the jurisdiction of Washington, D. C. or with standards established and promulgated by Joseph E. Seagram & Sons, Inc.
 - b. Incur any obligations or liabilities absolute or contingent other than current liabilities and obligations in the ordinary course of business.
 - c. Sell, assign or transfer any of its assets, or cancel any debts or claims, other than in the ordinary course of business.
 - d. Change, alter or impair the physical contents or character of its assets, including inventory, so as to materially affect the nature of its business or materially and adversely change the total dollar valuation of such property.
 - e. Enter into any transaction or transactions other than in the ordinary course of business, unless referred to herein.
8. Seller herein conveys to Purchaser the sole and exclusive right to the use of the name "Capitol City Liquor Company, Inc." and shall take all necessary action to change its name to one having no similarity to "Capitol City Liquor Company, Inc."
9. An adjustment in the consideration will be made for any decrease in book value occurring between July 31, 1970 and the date of closing.
10. All representations and warranties of Seller, pursuant to this Agreement, shall survive the closing date.
11. The closing shall take place on August 31, 1970 at 375 Park Avenue, New York City.
12. Harold Lee shall serve as an unpaid consultant for any length of time required by Purchaser for a period not to exceed 90 days.
13. Seller shall furnish Purchaser with a corporate resolution authorizing this sale, proof of stockholder approval of the sale and any other documents necessary to facilitate the conveyance.

14. Between the date hereof and the closing, Seller will afford the representatives of Purchaser free and full access to its premises, properties, books and records.

Seller agrees to indemnify Purchaser against and to pay any loss, damage, expense, claim or other liability incurred or suffered by Purchaser by reason of the inaccuracy of any warranty or representation of Seller contained herein.

It is understood that Joseph E. Seagram & Sons, Inc shall have the right to assign this Agreement to any other person, persons, or corporation.

If the foregoing correctly sets forth your understanding of our Agreement, please so signify by signing in the space provided below.

Very truly yours,

JOSEPH E. SEAGRAM & SONS, INC.

By Paul J. Stahl

ACCEPTED AND AGREED TO THIS
18th DAY OF AUGUST 1970

CAPITOL CITY LIQUOR COMPANY, INC.

By Donald S. Lee

Donald S. Lee

Individually

Felix A. Lee

Individually

Eric K. Lee

Individually

Arthur L. Lee

Individually

Henry S. Lee

Plaintiffs' Exhibit 8

**Amendment to Letter Agreement Between Capitol City
Liquor Company, Inc. and Joseph E. Seagram &
Sons, Inc. (August 25, 1970)**

ITs' 8

Joseph E. Seagram & Sons, Inc. E 38

EXECUTIVE OFFICES

375 PARK AVENUE • NEW YORK, N.Y. 10022

Distillers Since 1857

August 25, 1970

EXHIBIT
U.S. DIST. COURT
E. D. OF N.Y.

J-XS

Capitol City Liquor Company, Inc.
645 Taylor Street, N.E.
Washington, D.C.

Dear Sirs:

We are writing with reference to our Letter Agreement dated August 18, 1970.

In consideration of the mutual promises herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, said Agreement of August 18, 1970 is amended and modified as follows:

1. Paragraph 1 shall be amended to read that all due consideration shall be given to the advice and counsel of Granet and Granet with regard to book value computations. In the event of discrepancies between Price Waterhouse and Granet and Granet computations, Joseph E. Seagram & Sons, Inc. shall have absolute and final discretion to determine the binding figures.
2. Paragraph 2 shall read that lessee is to be liable for maintenance as well as taxes and that Lessor's obligations in connection with said lease are to be restricted to structural repairs and replacements. Lessee agrees to maintain insurance in the amount of \$750,000 on the building together with liability insurance and will name Lessors as co-beneficiaries of said policies.
3. Paragraph 3 shall be stricken in its entirety and in lieu thereof it should read that the consideration of \$2,513,000 shall be placed in escrow on August 31, 1970 with Riggs National Bank. At the closing said consideration shall be adjusted for changes in book value pursuant to paragraph 1 of this Agreement. Seller shall be entitled to any interest earned on said escrow balance.

(A)

4. Paragraph 4 shall be stricken in its entirety.
5. Paragraph 6f shall be amended to read that should the corporation commence liquidation in less than 6 months and fail to retain at least \$500,000 in net assets, all shareholders of Seller agree to personally guaranty performance of all warranties, covenants, representations and agreements contained herein.
6. Paragraph 9 shall be amended to read that notwithstanding the content thereof, no adjustment shall be made for any decrease in book value attributable solely to operating losses not to exceed \$5,000 incurred during the month of August 1970.
7. Paragraph 11 shall be amended to read that the closing will take place on or about the day after the transfer of Seller's liquor licenses is effective. Said closing in any event shall not be deferred more than 60 days from the date hereof with the understanding that the effective date remains July 31, 1970.

The closing of said sale of assets is conditioned upon, and shall not occur until, Chester Carter's new corporation, C.C.L.C., Inc. is approved as a licensee by the federal and local authorities. Inasmuch as said approval cannot be obtained until sometime in September 1970, the consideration shall be placed in escrow in Riggs National Bank, Washington, D.C. on August 31, 1970 so that you will receive interest from said date regardless of the actual closing date.

If the foregoing correctly sets forth your understanding of these amendments and modifications, please so signify by signing in the space provided below.

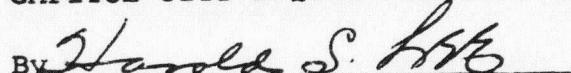
Very truly yours,

JOSEPH E. SEAGRAM & SONS, INC.

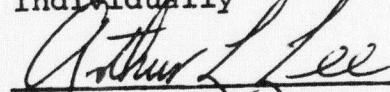
By 

ACCEPTED AND AGREED TO THIS
25th DAY OF AUGUST 1970

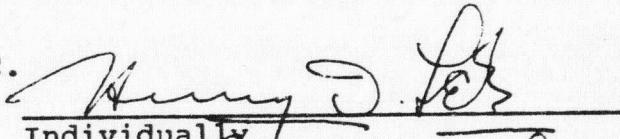
CAPITOL CITY LIQUOR COMPANY, INC.

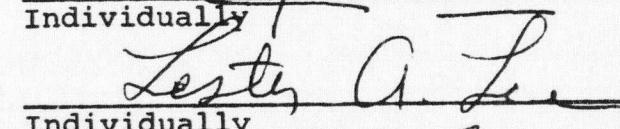
By 

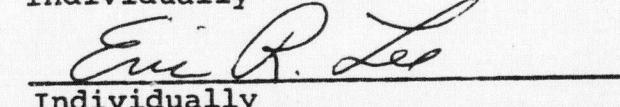
Individually



Individually


Individually


Individually


Individually

E 40

Plaintiffs' Exhibit 10

**Agreement Between Seagram Distillers Company and
Capitol City Liquor Company, Inc. (August 1, 1970)**

for 1D
TTS'10

1st

August

E 41

THIS AGREEMENT made this 1st day of August, 1979 by and between SEAGRAM DISTILLERS COMPANY (a Division of JOSEPH E. SEAGRAM & SONS, INC.) of 375 Park Avenue, New York, New York 10022, hereinafter called "Seagram" and ... CAPITAL CITY LIQUOR CO., INC. 645 Taylor Street, N. W., Washington, D. C. 20017 hereinafter called "Distributor" -

WITNESSETH:

WHEREAS, Seagram has the sole and exclusive right to distribute within the United States the alcoholic beverages produced by Joseph E. Seagram & Sons, Inc., and others, and the sole and exclusive right to import into and sell in the United States certain other alcoholic beverages, and

WHEREAS, Distributor represents and warrants that it is a licensed distributor of alcoholic beverages in the State of Washington, D. C., holding the necessary Federal, State and local permits authorizing Distributor to distribute alcoholic beverages therein, and that there are no actions pending or contemplated within the knowledge of Distributor that would in any way jeopardize any of said licenses, and

WHEREAS, Distributor desires to act as a distributor in said State of the alcoholic beverages handled by Seagram and set forth in Schedule A attached,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto AGREE AS FOLLOWS:

1. *Appointment.* Seagram hereby appoints Distributor as a distributor of the brands of alcoholic beverages (hereinafter called the "Products") set forth in Schedule A. Distributor shall be primarily responsible for distributing Products within the following territory (hereinafter called the "Territory") in the State of Washington, D. C.

Territory:

Seagram may, during the term of this agreement, for any reason appoint other distributors of Products in the Territory.

2. *Acceptance.* Distributor hereby accepts the appointment as such Distributor and will sell and distribute the Products only to retail licensees.

EXHIBIT
DIST. COURT
F. D. O. F. N. Y.
JUN 15 1975

10

SCHEDULE "A"

BRANDS:

- Seagram V.O.
- Seagram 7 Crown
- Seagram Extra Dry Gin
- Seagram Crown Royal
- 100 Pipers Scotch
- Benchmark Bourbon

3. *Purchases.* During the term of this agreement, Seagram will sell to Distributor and Distributor will purchase from Seagram, Products in such quantities as are necessary to meet the demand therefor in the Territory.

Seagram will supply Products to Distributor to the best of Seagram's ability; provided, however, that all or some Products may not always be available to fill all orders and Seagram may allocate to Distributor such proportion of the available supplies of Products as Seagram shall decide in its sole discretion. If Seagram shall have special packages or special packaging at any time, the quantity of special packages or special packaging and the allocation thereof shall be matters solely in the discretion of Seagram. Seagram reserves the right not to ship any orders received where such orders would result in an inventory in the hands of Distributor greater than a 15-day inventory, based on the average sales of Products by Distributor for the six months immediately preceding or, at Seagram's option, for the corresponding period in the prior year.

4. *Prices.* The prices at which Seagram shall sell its Products to Distributor and the prices at which Seagram shall repurchase Products shall be the prices in effect at the time of shipment by Seagram to Distributor. Seagram may change its prices, in its sole discretion, from time to time on written or telegraphed notice, except that any price change brought about by taxation may be accomplished without such notice. In the event Seagram shall reduce its prices, except for tax changes and temporary price reductions for periods not to exceed 60 days, during the term hereof, Seagram will give a floor stock adjustment to Distributor's inventory then on hand, provided such may be lawfully accomplished.

5. *Terms of Purchase and Sale.* Terms of payment stipulated by Seagram on each invoice to Distributor shall represent the terms of payment with respect to Products covered by such invoice and shall be of the essence of this contract. The amount and terms of credit extended by Seagram to Distributor shall be in the sole discretion of Seagram.

6. *Distributor's Covenants.* Distributor covenants that it will:

(a) spend, of the time and effort of his employees, and of advertising, sales promotion and deal participation dollars and effort, no lesser percentage than the percentage which Distributor's gross profit on sales of Products is of Distributor's gross profits on its total sales;

(b) cause its salesmen personally to call upon all retailers (within the Territory and whose business Distributor normally solicits) at reasonable intervals and attempt to sell them Products;

(c) (i) maintain a well-trained sales force, adequate to service all of Distributor's customers, to promote the sale of Products in the Territory, (ii) keep said sales force

fully informed as to Seagram policies, and (iii) continually train said sales force to promote the sale of Products in a manner which shall reflect credit on Distributor and on Seagram;

(d) take no action and will not fail to take action which may affect adversely its own standing, or Seagram's, in the trade;

(e) at all times cooperate with Seagram in effectuating Seagram's promotions and merchandising programs in the Territory;

(f) afford representatives of Seagram reasonable opportunity to meet with and help to train Distributor's salesmen and merchandising personnel;

(g) maintain inventories of Products (of all types and sizes) adequate to service the requirements of the market in the Territory for 45 days;

(h) promote the sale of all of the brands and sizes of Products to licensed retailers in the Territory in an aggressive and diligent manner;

(i) maintain prompt delivery service compatible with good business practice and the requirements of its customers, such delivery service to be no less prompt and effective than those of Distributor's competitors;

(j) not resell any of Products at less than the minimum wholesale prices prescribed by law, regulation or Fair Trade contracts, to the extent applicable;

(k) no later than the fifth day of each month deliver to Seagram a record, by brand and size of all items included in Products, of Distributor's sales of Products during the preceding month and of Distributor's inventory of Products at the close of such month;

(l) permit Seagram at reasonable times to take physical inventory of Distributor's stock of Products; and

(m) immediately upon undertaking distribution of any brands of alcoholic beverages other than as disclosed herein, give Seagram notice thereof.

7. *Seagram's Covenants.* Seagram covenants that:

(a) all Products to be sold and distributed hereunder shall be bottled, packaged and labelled in conformity with Federal, State and local laws, rules and regulations;

(b) Products shall be merchantable and shall meet all standards of quality imposed by Federal law and by the laws of the State wherein Product is to be distributed; and

(c) it shall defend any suit brought against Distributor for damages arising from the use of Products or from the use of brand names or labels of Products and shall hold harmless and indemnify Distributor against any liability, damage or expense incurred in con-

nection with any such suit, provided that Distributor shall notify Seagram promptly of any such suit and cooperate in the defense thereof to the extent reasonably required by Seagram.

8. *Distributor's Acknowledgment.* Distributor acknowledges that it desires to purchase from Seagram and to distribute all of the brands included in Products, and that the sale by Seagram to Distributor of any such brand is not conditioned upon the purchase of any other brand by Distributor from Seagram.

9. *Distributor's Representations.* Distributor represents that on the date hereof it is acting as a distributor of the brands of alcoholic beverages set forth on Schedule B, and no other.

10. *Disposal of Damaged Products.* In the event of damage to any of Products rendering the contents unfit for consumption or the containers unsightly or otherwise not of first-class appearance, Distributor shall not sell same nor permit the same to become the property of any insurer or carrier, nor otherwise dispose thereof except in accordance with the prior written instructions of Seagram.

11. *Expiration of Agreement.* This agreement shall expire on.....
July 31, 1971.

The parties acknowledge that upon expiration of this agreement, Seagram shall have no right to require Distributor to continue to act as a distributor of Products, or of any of them, and Distributor shall have no right to require Seagram to continue to supply Products, or any of them, to Distributor. Each party covenants that at no time will it commence any action or proceeding wherein it alleges that it has or had any such rights. Further, each of the parties hereby waives any claim against the other for loss or damage of any kind because of failure of the parties to extend the term hereof upon expiration of this agreement or because of failure of the parties upon expiration hereof to make a similar agreement relating to distribution of Products in the Territory.

12. *Cancellation for Cause.* Either party may cancel this agreement on fifteen (15) days' written notice on any of the following grounds:

- (a) The appointment of a trustee, receiver, or other similar custodian for all or any substantial part of the other party's property.
- (b) Insolvency of the other party.
- (c) The filing of a petition by the other party or an answer, not denying jurisdiction, in bankruptcy or under Chapter X or XI of the Federal Bankruptcy Act or similar

law, State or Federal, whether now or hereafter existing, or if such a petition is filed against the other party and not vacated or stayed within fifteen (15) days.

(d) The making by the other party of an assignment for the benefit of creditors.

(e) An attachment of the other party's property or any substantial part thereof or the filing of any like process against it which is not discharged within thirty (30) days.

(f) The rendition of a judgment against the other party which remains unsatisfied or unsuperseded for thirty (30) days, and which is substantial in relation to such party's assets.

(g) The loss by the other party of any Federal, State or local license required for the carrying out of the provisions of this agreement, whether lost through revocation, failure to renew, or suspension of thirty (30) days or more.

(h) Sale or transfer by the other party of a material portion of its physical assets.

(i) Sale or transfer of control or management of the other party.

(j) The enactment of a law making the sale of Products unlawful in Distributor's Territory.

(k) That the other party has engaged in the Territory in any practice with respect to Products, which, if tried by a proper tribunal, would probably be found to be an unlawful or unfair trade practice in violation of State or Federal law.

13. *Repurchase of Goods upon Expiration or Cancellation.* Upon expiration or cancellation of this agreement, Distributor shall deliver to Seagram, F.O.B. Distributor's warehouse and in accordance with Seagram's written instructions, all Products in Distributor's possession. Within one week of receipt of said Products, Seagram shall pay to Distributor by check a sum equal to the aggregate of (i) Distributor's laid-in cost for returned Products, and (ii) any non-refundable gallenage taxes paid by Distributor with respect to returned Products, reduced by all sums owing by Distributor to Seagram.

14. *Assignment.* Except as otherwise provided in writing, signed by both parties, this contract shall not be assignable.

15. *Arbitration.* Any controversy or claim arising out of or relating to this agreement or the breach thereof, shall be settled by arbitration, in accordance with the rules, then

obtaining, of the American Arbitration Association, and judgment upon the award rendered may be entered in the highest court of the forum, State or Federal, having jurisdiction.

No proceeding of any kind except an arbitration proceeding shall be commenced as to any controversy or claim arising out of or relating to this contract or the breach or cancellation thereof. No proceeding of any kind except a suit to enforce an arbitration award shall be commenced more than one year after the claim or controversy, which is the subject matter thereof, arises.

16. Scope and Modification of Agreement. This agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. No agent or officer of either party is authorized to make any representation, promise or warranty not contained in this agreement. No interpretation, change, waiver or termination of any of the provisions hereof shall be binding upon either party, unless in writing and signed by an officer thereunto authorized. No modification, waiver, termination, rescission, discharge or cancellation of this agreement shall affect the right of either party to enforce against the other any claim, whether or not liquidated, which accrued prior to the date of such modification, waiver, termination, rescission, discharge or cancellation, and no waiver of any of the provisions of, or default under this agreement shall affect the right of either party to enforce said provisions or to exercise any right or remedy in the event of any other default, whether or not similar.

17. Notices. All notices and other communications pursuant to or relating to any of the subject matter of this agreement shall be in writing and shall be sent by certified or registered mail addressed to the other party at the following address: If to Seagram, at 375

Park Avenue, New York, New York 10022. If to Distributor,

..... 645 Taylor Street, N. W., Washington, D. C. 20013

18. Governing Law. This agreement has been entered into in the offices of Seagram in the City of New York, State of New York, and shall become effective upon acceptance thereof by Seagram in such place. This agreement is a New York contract and shall be governed in all respects by the laws of the State of New York.

19. Mutual Releases. The parties acknowledge that, at the date hereof, neither of them has any claim for damages, reimbursement of expenses, breach of contract, nor any claim of any other nature against the other party, (except for merchandise purchased by Distributor from Seagram and not yet paid for and except

and, in consideration of the other entering into this agreement, any and all such claims of each party except those stated are hereby fully and forever discharged and released.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, the day and year above written.

SEAGRAM DISTILLERS COMPANY
(a Division of JOSEPH E. SEAGRAM & SONS, INC.)

By: *John J. McElroy*
State Manager

Accepted:
By: *Douglas Schenck*
Vice-President

..... CAPITOL CITY BREWERY CO., INC.
Distributor

By: *Donald S. Free* President

Plaintiffs' Exhibit 11

**Agreement Between Seagram Distillers Company and
Capitol City Liquor Company, Inc. (July 2, 1969)**

THIS AGREEMENT made this 27th day of July, 1969, by and
between SEAGRAM DISTILLERS COMPANY (a Division of JOSEPH E. SEAGRAM &
SONS, INC.) of 375 Park Avenue, New York, New York 10022, hereinafter called "Seagram"
and COL. INDIAN CITY LIQUOR CO., INC.
and 425 Taylor Street, N. E., Washington, D. C. 20027
hereinafter called "Distributor"—

WITNESSETH:

WHEREAS, Seagram has the sole and exclusive right to distribute within the United States the alcoholic beverages produced by Joseph E. Seagram & Sons, Inc., and others, and the sole and exclusive right to import into and sell in the United States certain other alcoholic beverages, and

WHEREAS, Distributor represents and warrants that it is a licensed distributor of alcoholic beverages in the State of ~~Illinois, Ill., U. S. A.~~ holding the necessary Federal, State and local permits authorizing Distributor to distribute alcoholic beverages therein, and that there are no actions pending or contemplated within the knowledge of Distributor that would in any way jeopardize any of said licenses, and

WHEREAS, Distributor desires to act as a distributor in said State of the alcoholic beverages handled by Seagram and set forth in Schedule A attached,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties hereto AGREE AS FOLLOWS:

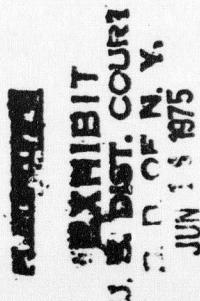
1. *Appointment.* Seagram hereby appoints Distributor as a distributor of the brands of alcoholic beverages (hereinafter called the "Products") set forth in Schedule A. Distributor shall be primarily responsible for distributing Products within the following terri-

territory (hereinafter called the "Territory") in the State of
Territory:

Seagram may, during the term of this agreement, for any reason appoint other distributors of Products in the Territory.

2. Acceptance. Distributor hereby accepts the appointment as such Distributor and will sell and distribute the Products only to retail licensees.

BEST COPY AVAILABLE



SCHEDULE "A"

BRANDS: Seagram V.O.
Seagram 7 Crown
Seagram Extra Dry Gin
Seagram Crown Royal
100 Pipers Scotch
Benchmark Bourbon

3. Purchases. During the term of this agreement, Seagram will sell to Distributor and Distributor will purchase from Seagram, Products in such quantities as are necessary to meet the demand therefor in the Territory.

Seagram will supply Products to Distributor to the best of Seagram's ability; provided, however, that all or some Products may not always be available to fill all orders and Seagram may allocate to Distributor such proportion of the available supplies of Products as Seagram shall decide in its sole discretion. If Seagram shall have special packages or special packaging at any time, the quantity of special packages or special packaging and the allocation thereof shall be matters solely in the discretion of Seagram. Seagram reserves the right not to ship any orders received where such orders would result in an inventory in the hands of Distributor greater than a 45-day inventory, based on the rate of sales of Products by Distributor for the six months immediately preceding or, at Seagram's option, for the corresponding period in the prior year.

4. Prices. The prices at which Seagram shall sell its Products to Distributor and the prices at which Seagram shall repurchase Products shall be the prices in effect at the time of shipment by Seagram to Distributor. Seagram may change its prices, in its sole discretion, from time to time on written or telegraphed notice, except that any price change brought about by taxation may be accomplished without such notice. In the event Seagram shall reduce its prices, except for tax changes and temporary price reductions for periods not to exceed 60 days, during the term hereof, Seagram will give a floor stock adjustment to Distributor on its inventory then on hand, provided such may be lawfully accomplished.

5. Terms of Purchase and Sale. Terms of payments stipulated by Seagram on each invoice to Distributor shall represent the terms of payment with respect to Products covered by such invoice and shall be of the essence of this contract. The amount and terms of credit extended by Seagram to Distributor shall be in the sole discretion of Seagram.

6. Distributor's Covenants. Distributor covenants that it will:

(a) spend, of the time and effort of his employees, and of advertising, sales promotion and deal participation dollars and effort, no lesser percentage than the percentage which Distributor's gross profit on sales of Products is of Distributor's gross profits on its total sales;

(b) cause its salesmen personally to call upon all retailers (within the Territory and whose business Distributor normally solicits) at reasonable intervals and attempt to sell them Products;

(c) (i) maintain a well-trained sales force, adequate to service all of Distributor's customers, to promote the sale of Products in the Territory, (ii) keep said sales force

fully informed as to Seagram policies, and (iii) continually train said sales force to promote the sale of Products in a manner which shall reflect credit on Distributor and on Seagram;

(d) take no action and will not fail to take action which may affect adversely its own standing, or Seagram's, in the trade;

(e) at all times cooperate with Seagram in effectuating Seagram's promotions and merchandising programs in the Territory;

(f) afford representatives of Seagram reasonable opportunity to meet with and help to train Distributor's salesmen and merchandising personnel;

(g) maintain inventories of Products (of all types and sizes) adequate to service the requirements of the market in the Territory for 45 days;

(h) promote the sale of all of the brands and sizes of Products to licensed retailers in the Territory in an aggressive and diligent manner;

(i) maintain prompt delivery service compatible with good business practice and the requirements of its customers, such delivery service to be no less prompt and effective than those of Distributor's competitors;

(j) not resell any of Products at less than the minimum wholesale prices prescribed by law, regulation or Fair Trade contracts, to the extent applicable;

(k) no later than the fifth day of each month deliver to Seagram a record, by brand and size of all items included in Products, of Distributor's sales of Products during the preceding month and of Distributor's inventory of Products at the close of such month;

(l) permit Seagram at reasonable times to take physical inventory of Distributor's stock of Products; and

(m) immediately upon undertaking distribution of any brands of alcoholic beverages other than as disclosed herein, give Seagram notice thereof.

7. *Seagram's Covenants.* Seagram covenants that:

(a) all Products to be sold and distributed hereunder shall be bottled, packaged and labelled in conformity with Federal, State and local laws, rules and regulations;

(b) Products shall be merchantable and shall meet all standards of quality imposed by Federal law and by the laws of the State wherein Product is to be distributed; and

(c) it shall defend any suit brought against Distributor for damages arising from the use of Products or from the use of brand names or labels of Products and shall hold harmless and indemnify Distributor against any liability, damage or expense incurred in con-

nection with any such suit, provided that Distributor shall notify Seagram promptly of any such suit and cooperate in the defense thereof to the extent reasonably required by Seagram.

8. *Distributor's Acknowledgment.* Distributor acknowledges that it desires to purchase from Seagram and to distribute all of the brands included in Products, and that the sale by Seagram to Distributor of any such brand is not conditioned upon the purchase of any other brand by Distributor from Seagram.

9. *Distributor's Representations.* Distributor represents that on the date hereof it is acting as a distributor of the brands of alcoholic beverages set forth on Schedule B, and no other.

10. *Disposal of Damaged Products.* In the event of damage to any of Products rendering the contents unfit for consumption or the containers unsightly or otherwise not of first-class appearance, Distributor shall not sell same nor permit the same to become the property of any insurer or carrier, nor otherwise dispose thereof except in accordance with the prior written instructions of Seagram.

11. *Expiration of Agreement.* This agreement shall expire on
July 31, 1970.

The parties acknowledge that upon expiration of this agreement, Seagram shall have no right to require Distributor to continue to act as a distributor of Products, or of any of them, and Distributor shall have no right to require Seagram to continue to supply Products, or any of them, to Distributor. Each party covenants that at no time will it commence any action or proceeding wherein it alleges that it has or had any such rights. Further, each of the parties hereby waives any claim against the other for loss or damage of any kind because of failure of the parties to extend the term hereof upon expiration of this agreement or because of failure of the parties upon expiration hereof to make a similar agreement relating to distribution of Products in the Territory.

12. *Cancellation for Cause.* Either party may cancel this agreement on fifteen (15) days' written notice on any of the following grounds:

(a) The appointment of a trustee, receiver, or other similar custodian for all or any substantial part of the other party's property.

(b) Insolvency of the other party.

(c) The filing of a petition by the other party or an answer, not denying jurisdiction, in bankruptcy or under Chapter X or XI of the Federal Bankruptcy Act or similar

law, State or Federal, whether now or hereafter existing, or if such a petition is filed against the other party and not vacated or stayed within fifteen (15) days.

(d) The making by the other party of an assignment for the benefit of creditors.

(e) An attachment of the other party's property or any substantial part thereof or the filing of any like process against it which is not discharged within thirty (30) days.

(f) The rendition of a judgment against the other party which remains unsatisfied or unexecuted for thirty (30) days, and which is substantial in relation to such party's assets.

(g) The loss by the other party of any Federal, State or local license required for the carrying out of the provisions of this agreement, whether lost through revocation, failure to renew, or suspension of thirty (30) days or more.

(h) Sale or transfer by the other party of a material portion of its physical assets.

(i) Sale or transfer of control or management of the other party.

(j) The enactment of a law making the sale of Products unlawful in Distributor's Territory.

(k) That the other party has engaged in the Territory in any practice with respect to Products, which, if tried by a proper tribunal, would probably be found to be an unlawful or unfair trade practice in violation of State or Federal law.

13. Repurchase of Goods upon Expiration or Cancellation. Upon expiration or cancellation of this agreement, Distributor shall deliver to Seagram, F.O.B. Distributor's warehouse and in accordance with Seagram's written instructions, all Products in Distributor's possession. Within one week of receipt of said Products, Seagram shall pay to Distributor by check a sum equal to the aggregate of (i) Distributor's laid-in cost for returned Products, and (ii) any non-refundable gallonage taxes paid by Distributor with respect to returned Products, reduced by all sums owing by Distributor to Seagram.

14. Assignment. Except as otherwise provided in writing, signed by both parties, this contract shall not be assignable.

15. Arbitration. Any controversy or claim arising out of or relating to this agreement or the breach thereof, shall be settled by arbitration, in accordance with the rules, then

obtaining, of the American Arbitration Association, and judgment upon the award rendered may be entered in the highest court of the forum, State or Federal, having jurisdiction.

No proceeding of any kind except an arbitration proceeding shall be commenced as to any controversy or claim arising out of or relating to this contract or the breach or cancellation thereof. No proceeding of any kind except a suit to enforce an arbitration award shall be commenced more than one year after the claim or controversy, which is the subject matter thereof, arises.

16. Scope and Modification of Agreement. This agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. No agent or officer of either party is authorized to make any representation, promise or warranty not contained in this agreement. No interpretation, change, waiver or termination of any of the provisions hereof shall be binding upon either party, unless in writing and signed by an officer thereunto authorized. No modification, waiver, termination, rescission, discharge or cancellation of this agreement shall affect the right of either party to enforce against the other any claim, whether or not liquidated, which accrued prior to the date of such modification, waiver, termination, rescission, discharge or cancellation, and no waiver of any of the provisions of, or default under this agreement shall affect the right of either party to enforce said provisions or to exercise any right or remedy in the event of any other default, whether or not similar.

17. Notices. All notices and other communications pursuant to or relating to any of the subject matter of this agreement shall be in writing and shall be sent by certified or registered mail addressed to the other party at the following address: If to Seagram, at 375

Park Avenue, New York, New York 10022. If to Distributor,

..... 645 Toyot Street, N. E., Washington, D. C. 20027

18. Governing Law. This agreement has been entered into in the offices of Seagram in the City of New York, State of New York, and shall become effective upon acceptance thereof by Seagram in such place. This agreement is a New York contract and shall be governed in all respects by the laws of the State of New York.

19. Mutual Releases. The parties acknowledge that, at the date hereof, neither of them has any claim for damages, reimbursement of expenses, breach of contract, nor any claim of any other nature against the other party, (except for merchandise purchased by Distributor from Seagram and not yet paid for and except

and, in consideration of the other entering into this agreement, any and all such claims of each party except those stated are hereby fully and forever discharged and released.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, the day and year above written.

SEAGRAM DISTILLERS COMPANY
(a Division of JOSEPH E. SEAGRAM & SONS, INC.)

By: *William J. Kline*
State Manager

Accepted: *Dwight Seiner*
By: Vice-President

..... CAPITAL CITY LIQUOR CO., INC.,
Distributor

By: *William C. Miller*, President

E 58

Plaintiffs' Exhibit 12
Expense Report of Lester A. Lee (June 22, 1971)

TS 12

expenses 1 ' 600 \$ day
Airfare 59

Trip to New York City - June 22, 1971

Discussed availability of wholesale liquor
house with Jack Yezman

Air fare 52.00
Taxi 7.00
Phone .20
Lunch 30
\$ 59.50

Parking 1.20 (Natl Airport)
Mileage 60 3.60 (30 mi @ 12.10)
Total expense 64.30

~~RECEIVED~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

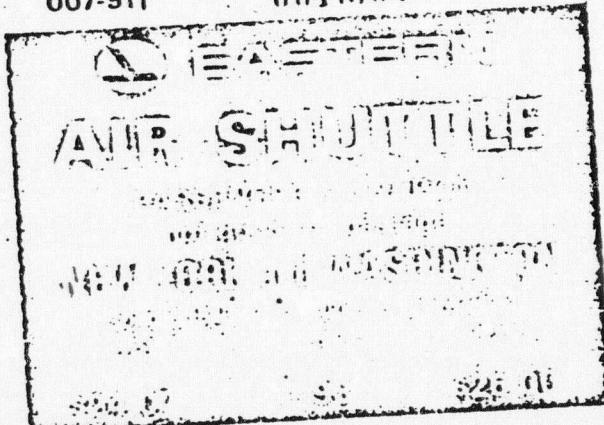
JUN 15 1975
12-
~~12-~~

BEST COPY AVAILABLE

Leslie A Lee

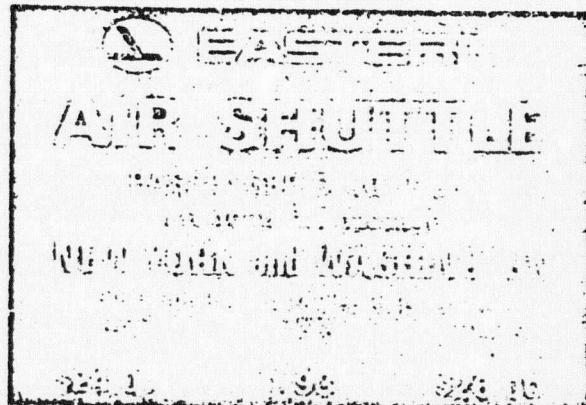
007-911

061361



007-911

114:000



E 60

Plaintiffs' Exhibit 13
New York Times News Photograph of
Harold S. Lee (May 12, 1958)

T x 13 for id

E 61

The New York Times

IFF'S

EXHIBIT
DIST. COURT
D. OF N. Y.

13-15



ELEVATED: Harold S. Lee, chosen executive vice president and managing director of Calvert Distillers Company and a director of The House of Seagram, Inc. He succeeds Tubie Resnik. Mr. Lee will supervise all Calvert sales and manpower.

E 62

Plaintiffs' Exhibit 14

**Confidential Memorandum from John Barth to Edgar
Bronfman and Jack Yogman (June 12, 1970)**

~~7114~~

June 12, 1970

CONFIDENTIAL

JLTS

5

AM
10/17/72 W.B.

Mr. Edgar Bronfman
Mr. Jack Yegman

In a meeting with Marold Lee Thursday, June 11, the following was developed:

1. He is ready to sell immediately.
2. He will basically sell on our terms, and recognizes Seagram put him in business and that we also have the feeling of the worth of a distributorship.
3. He will update his financial statement through May, and upon completion of this will sit down with Jack and me regarding the price.
4. He would prefer not to be paid in cash, but would prefer some other type arrangement such as stock, etc.
5. The present building which he owns will be taken over by the Highway Department, probably within the next two years. I checked on this and he also admitted the possibility existed. In view of this, he is agreeable to leasing the present building to us so that we will not inherit the headaches involved in a government purchase.
6. He understands that all the Lees will leave the business.
7. I did not mention who the prospective buyer would be.
8. He would very much like to have another distributorship in another area for his two sons.
9. I informed him that the target date would be September 1st.

Mr. Edgar Brodfman
Mr. Jack Yegman

-2-

June 12, 1970

Harold's reason for wishing to sell is simply that he feels the complexion of Washington, D.C. is changing rapidly, with transactions being consummated every day for black ownership of the retail stores. He mentioned that he thought the time was right for a black entrepreneur to move into D.C. He thought it would be a real shot in the arm for the Seagram brands. This information he volunteered as to his reason for leaving.

We should be able to have the information necessary to get down to the nitty gritty around July 10th.

JB:bc

E 65

Plaintiffs' Exhibit 15

Memorandum from John Barth to Edgar Bronfman
(June 2, 1970)

IT/5

USA 33a-475
(ED. 4-23-71)

~~PLAINTIFFS~~

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

15-72

C. Carter
From the desk of
JOHN BARTH

E 66

June 2, 1970

Mr. Edgar Bronfman,

Had a meeting at noon today with Chet Carter. He is over the shock and 100% realizes the great opportunity offered to him.

We agree with your target date of September 1st, and will proceed with caution to meet that date.

For your information, the following is a brief breakdown on Capitol Distributors:

Sales volume	\$12,600.00
Profit before taxes	284.00
Profit after taxes	\$ 143,000
Net worth	\$ 1,700,000

The above profit is with six lees on the payroll.

I feel this indicates to all of us that this is a going profitable house. Our approach on buying this house will be done with caution, and will discuss with you later.

[Handwritten signature]
JB:be

E 67

Plaintiffs' Exhibit 17

**E. F. Hutton & Company Brokerage Statement for the
Account of Harold S. Lee (November 24, 1970)**

EXHIBIT
TO THE
STATEMENT
OF ACCOUNT

Trans Date	Postage Received or Long	Send Date Received or Sent	Description	Price	Debit	Credit	Page No.	Month Year	Rec'd. Statement or Tax Refund Rec'd. No.	Trans Received or Number and Date
11 11 71	CP	25000	BALANCE OCT 23 1971			00		01 11 24 71	132 C2 C754	21 14 03 41
11 11	CP	25000	CK REC'D 15-3 TULSA OKLAHOMA AIRPORT REV JC 5 1/2 05 C1 2005		2492-0	5000	44			
11 11	CP	50000	PRICE 50,000 CK REC'D 15-3 PUBLIC FILING AUTH ATLANTA GA MN 5,000 05 C1 2005			24926	04			
11 11	CP	50000	PRICE 100,000 PUBLIC FILING ALTH ATLANTA GA MN 5,000 05 C1 2005		5000	5000				
11 12	CP	50000	CLOSING BALANCE		00					
11 12	CP	25000	TULSA OKLAHOMA AIRPORT REV JC 5 1/2 05 C1 2005		5000	5000				
11 11 71	CP	25000	BALANCE OCT 24 1971		00					
11 11 71	CP	25000	TULSA OKLAHOMA							

Form 1251 (Rev. 3/71)

Statement of Account with

E.F. Hutton
E. F. Hutton & Company Inc.

Main Office
One Battery Park Plaza, New York, N.Y. 10004
Telephone 212-742-5000

Please retain this statement for income tax purposes and a copy of this statement may be furnished by you to verify interest and fees appearing on subsequent statements. If not correct, please return it immediately.

Checks and securities should be sent to the cashier of the office serving your account. Instructions and inquiries should be directed to your Account Executive. When making inquiries please mention your account number. Please notify us promptly of any change of address.

No one connected with E. F. HUTTON & COMPANY Inc. is authorized to render tax advice or to insure the tax consequences of any transaction.

Errors and omissions excepted.

See reverse side for explanation of symbols.

E 69

Plaintiffs' Exhibit 18

**E. F. Hutton & Company Brokerage Statement for the
Account of Harold S. Lee (December 31, 1971)**

TR 8

EXHIBIT
U.S. DIST. OF N.Y.
PLAINTIFFS

6-21

Page No.	Month	Day	Year	Serial Security No.	File Identifying No.	On	Our Account Number	File Number	Age
1	12	31	71	151-03-07	21	21	14203	40	
HAROLD S. LEE APT. 306-4 4201 CATHEDRAL AVE. NW WASH. D. C. 20016									

Statement of Account with

EF Hutton
E. F. Hutton & Company Inc.

Main Office:
One Battery Park Plaza, New York, N.Y. 10004
Telephone: 212-742-5100

Please retain this statement for income tax purposes and also because it contains information required by you to verify interest income appearing on subsequent statements. If not correct, please return it immediately.

Checks and securities should be sent in the cashier of the office involving your account. Instructions and messages should be directed to your Account Executive. When sending a check, attach your account number. Please notify us promptly of any change of address.

No one connected with E. F. HUTTON & COMPANY INC. is authorized to render tax advice or to insure the tax consequences of any transaction.

Errors and omissions excepted.

See reverse side for explanatory terms.

Trans	Date	Received	Send Certified or Cash	Description	Price	Debit	Credit
1				BALANCE NOV 29 71		00	
1	11 29			25000 TULSA OKLAHOMA AIRPORT REV JD 5 1/2 06 01 2003	DEL		
1	12 06			CK PFCO			
1	12 07	500		CANADIAN PACIFIC LTD ORD NEW \$5 PV	12	6110 00	6110 00
1				CLOSING BALANCE		00	
1		500		CANADIAN PACIFIC LTD ORD NEW \$5 PV	BAL		

Form 1211 (Rev. 3/71)

E 70

E 71

Plaintiffs' Exhibit 19

**Fahnestock & Co. Brokerage Statement for the
Account of Harold S. Lee (November 31, 1971)**

STATEMENT RENDERED AS OF

NOV. 30, 1971

MR HAROLD S LEE
4201 CATHEDRAL AVE N W
APT 904W
WASHINGTON D C 20016

IN ACCOUNT WITH

Fahnstock & Co.
(Established 1881)

110 WALL STREET
NEW YORK, N.Y. 10005
TEL 212 WHIRLPOOL 38900

OFF. ACCOUNT E CM
04 5482 1 45

T 19

TYPE OF ACCOUNT
1 CASH
2 MARGIN
3 SHORT
4 NON PURPOSE LOAN
5 SPECIAL X-BUS
6 INCOME
7 SPECIAL BOND
8 SPECIAL CON. P.M.

DATE	QUANTITY	DESCRIPTION	PRICE	DEBIT	AMOUNT	CREDIT	BALANCE	DEBIT UNLESS MARKED CR
11-01		CHECK					102,291.67	
11-01		CHECK					102,277.78	
11-03	100000	SHERMAN TEXAS 5 05FA	101	102,277.78				
11-03		INT 1277.78						
11-03		CUE 8-1-2005						
11-04	100000	SHERMAN TEXAS 5 04FA	101	102,291.67				
11-04		AS OF 10-27-71						
11-04		INT 1291.67						
11-04		CUE 8-1-2004						
11-10	10000	SHERMAN TEX PHAS 08FA	100	10	10.137.50			
11-10		DUE 8-1-2010						
11-10		AS OF 11-3-71						
11-10	10000	SHERMAN TEX PHAS 09FA	100	10	10.137.50			
11-10		DUE 8-1-2009						
11-10		AS OF 11-3-71						
11-10	15000	SHERMAN PUB HS 10FA	100	15	15.206.25			
11-10		DUE 8-1-2010						
11-10		AS OF 11-3-71						
11-10	15000	SHERMAN TEX PHAS 90FA	100	15	15.206.25			
11-10		DUE 8-1-90						
11-10		AS OF 11-3-71						
11-10	5000	SHERMAN TEX PHAS 00FA	100	5	5.068.75			
11-10		AS OF 11-3-71						
11-10		CUE 8-1-2000						
11-10	15000	SHERMAN TEX PHAS 01FA	100	15	15.206.25			
11-10		AS OF 11-3-71						
11-10		DUE 8-1-2000						
11-10		PIGS NATL BK CK						
11-11	15000	ATLANTA CA PHAS 09MN	100	15	15.020.83			
11-11		AS OF 11-4-71						
11-11		CUE 5-1-2009						
11-11	35000	BIRMINGHAM PHAS 1/0 05MN	100	35	35.049.83			

121,033.16
E
72

NOTICE THIS STATEMENT SHOULD BE RETAINED AS IT CONTAINS INFORMATION THAT MAY BE NEEDED TO ENABLE YOU TO VERIFY INTEREST CHARGES
APPEARING ON SUBSEQUENT STATEMENTS AND ALSO FOR INCOME TAX PURPOSES (SEE REVERSE SIDE FOR AGREEMENT, ETC.)

EXHIBIT
E
DIST. CO.
S. D. OF R.
REFFERS

ITEMS AS OF

NOV. 30, 1971

MR. MARLON S. LEE
4221 CATHEDRAL AVE. N. W.
APT. 1044
WASHINGTON D. C. 20015

IN ACCOUNT WITH

Fahnstock & Co.
(Established 1871)

110 WALL STREET
NEW YORK, N.Y. 10005
TEL 212 WHITBELL 38900

OFF. ACCOUNT 1 CM
04 5482 1 45

TYPE OF ACCOUNT
1 CASH
2 MARGIN
3 SHORT
4 NON PURPOSE LOAN
5 SPECIAL SUBS
6 INCOME
7 SPECIAL BOND ACCT
8 SPECIAL CNY BOND

DATE	QUANTITY	DESCRIPTION	PRICE	DEBIT	AMOUNT	CREDIT	BALANCE
							DEBIT UNLESS MARKED CR
11-11		AS OF 11-4-71					
11-11		DUE 11-1-55					
11-11	50000	PORT NY AUTH 5 3/8 66MN	98 3/4	49,449.65			
11-11		FORMERLY WHEN ISSUED					
11-12	50000	SHERMAN TEXAS 5 C4FA	101			51,201.39	
11-12		DUE 8-1-20 4	D				
11-12		ELY 11-12	A				
11-12		S OF 11-11-71					
11-16	10000	NASHVILLE PHA 5 C7FA	100		10,145.83		
11-16		AS OF 11-4-71					
11-16		FORMERLY WHEN ISSUED					
11-16		DUE 8-1-20 7					
11-16		TFN OF FUNDS MGN AC					
11-26	50000	SHERMAN TEXAS 5 C4FA	101			8,394.09	
11-26		DUE 8-1-20 4					
11-26		AS OF 11-16-71					
11-29	50000	SHERMAN PUB HS 10FA	100		50,819.44		
11-29		DUE 8-1-2010					
SECURITY POSITIONS							
1000		ATLANTICA L GOLFO SU					
6000		CISTLEPS SEARAM LFC					
100		HIGH VOLTAGE ENCRG					
500		LEAF SINGLE INC					
1		WESTERN GAS TRANS					
1000		NATIONAL PETROLEUM					
25000		AMER MET CLIMXH 86JJ					
15000		ATLANTA GA PHA 19MN					
35000		BIRMINGHAM PHA 1/8 05MN					
10000		NASHVILLE TMA 5 C7FA					
50000		PORT NY AUTH 5 3/8 66MN					

NOTICE THIS STATEMENT SHOULD BE RETAINED AS IT CONTAINS INFORMATION THAT MAY BE NEEDED TO ENABLE YOU TO VERIFY INTEREST CHARGES
APPEARING ON SUBSEQUENT STATEMENTS AND ALSO FOR INCOME TAX PURPOSES (SEE REVERSE SIDE FOR AGREEMENT, ETC.)

M

Z

HEADS OF

NOV. 30, 1971

IN ACCOUNT WITH

OFF. ACCOUNT 1 CM
04 5482 1 45

MR. HAROLD S. LIE
4211 CATHEDRAL AVE. N.W.
APT. 904W
WASHINGTON D.C. 20016

Fahnstock & Co.
(Established 1881)

110 WALL STREET
NEW YORK, N.Y. 10005
TEL 212 WHITEHALL 3-8900

TYPE OF ACCOUNT
1. CASH
2. MARGIN
3. SHORT
4. NON PURPOSE LOAN
5. SPECIAL SAVINGS
6. INCOME
7. SPECIAL BONANZA
8. SPECIAL CONV. MTD

DATE	QUANTITY UNQUOTE UNQUOTE WEIGHTS WEIGHTS WEIGHTS	DESCRIPTION	PRICE	AMOUNT		BALANCE DEBIT UNLESS MARKED CH
				DEBIT	CREDIT	
650.00		SHERMAN PUG HS5 1CFA				
1000.00		SHERMAN TEXAS 5 05FA				
1500.00		SHERMAN TTX PHAS 9CFA				
1500.00		SHERMAN TTX PHAS C0FA				
1000.00		SHERMAN TEX PHAS C1FA				
1000.00		SHERMAN TEX PHAS C0FA				
10000.00		SHERMAN TTX PHAS C9FA				

NOTICE THIS STATEMENT SHOULD BE RETAINED AS IT CONTAINS INFORMATION THAT MAY BE NEEDED TO ENABLE YOU TO VERIFY INTEREST CHARGES
APPEARING ON SUBSEQUENT STATEMENTS, AND ALSO FOR INCOME TAX PURPOSES (SEE REVERSE SIDE FOR AGREEMENT, ETC.)

NOV 3, 1971

IN ACCOUNT WITH

M. HIRSHLEFF & CO.
421 CATHEDRAL AVENUE
APT. 104W
WASHINGTON D. C. 20001

Fahnstock & Co.
(Established 1881)

110 WALL STREET
NEW YORK, N.Y. 10005
TEL 212 WHITEHALL 38900

OFF ACCOUNT
04 5482 1 4

TYPE OF ACCOUNT
1. CASH
2. MORTGAGE
3. SHORT
4. NON-PURPOSE
5. SPECIAL SAVINGS
6. IN USE
7. SPECIAL CHECK
8. CREDIT CARD

DATE	QUANTITY AND TYPE OF ITEMS RECEIVED	DESCRIPTION	PRICE	AMOUNT		BALANCE DEBIT UNLESS MARKED C
				DEBIT	CREDIT	
12-6	50000	SACHS MORTGAGE 1 11/16 DO. 1-1-2 11	\$8 3/8	49,222.92		
12-6		FORBES MORTGAGE ISSUED				
12-6						49,222.92

NOTICE THIS STATEMENT SHOULD BE RETAINED AS IT CONTAINS INFORMATION THAT MAY BE NEEDED TO ENABLE YOU TO VERIFY INTEREST CHARGES
APPEARING ON SUBSEQUENT STATEMENTS AND ALSO FOR INCOME TAX PURPOSES. SEE REVERSE SIDE FOR AGREEMENT, ETC.

E 75

E 76

Plaintiffs' Exhibit 39

**Four Fahnestock & Co. Transaction Slips for the
Account of Lester A. Lee (October 26, 1971)**

Fahnestock & Co.
(Established 1881)

TT39

110 WALL ST., NEW YORK, N.Y. 10005

BROKERS FOR YOU, OR AS PRINCIPALS WHEN INDICATED BY NUMBER 1 UNDER ♦, WE HAVE MADE THE FOLLOWING TRANSACTION

BOUGHT ♦ YOU SOLD
50000

New England Telephone & Telegraph

PRICE

10-26-11-3-41
MC DAY MO DAY NO
10-26-11-3-41

ACCOUNT NO
4 5478 1 45' 9

↑
SEE REVERSE SIDE
↑

8.200% 6-1-4
Callable 6-1-76 at 106.74

105.750

\$ 54606.11

NET AMOUNT *

52875.00 1731.11

STATE TAX SERV. CHARGE REG. FEE COMMISSION

Mr. Lester A. Lee
6101 Neilwood Dr.
Rockville, Maryland 20852

45

* PAYMENT MAY BE MADE AT EITHER OUR MAIN OFFICE OR AT ANY BRANCH OFFICE.

212 WHITEHORN 3-8900

Fahnestock & Co.
(Established 1881)

110 WALL ST., NEW YORK, N.Y. 10005

BROKERS FOR YOU, OR AS PRINCIPALS WHEN INDICATED BY NUMBER 1 UNDER ♦, WE HAVE MADE THE FOLLOWING TRANSACTION

BOUGHT ♦ YOU SOLD
50000

Southwest Bell Telephone

PRICE

10-26-11-3-71
MC DAY MO DAY NO
10-26-11-3-71

ACCOUNT NO
4 5478 1 45' 9

↑
SEE REVERSE SIDE
↑

8.250% 9-1-5
Callable 6-1-76 at 106.74

105.750

\$ 53585.42

NET AMOUNT *

52875.00 710.42

STATE TAX SERV. CHARGE REG. FEE COMMISSION

Mr. Lester A. Lee
6101 Neilwood Dr.
Rockville, Maryland 20852

45

* PAYMENT MAY BE MADE AT EITHER OUR MAIN OFFICE OR AT ANY BRANCH OFFICE.

212 WHITEHORN 3-8900

Fahnestock & Co.
(Established 1881)

110 WALL ST., NEW YORK, N.Y. 10005

BROKERS FOR YOU, OR AS PRINCIPALS WHEN INDICATED BY NUMBER 1 UNDER ♦, WE HAVE MADE THE FOLLOWING TRANSACTION

BOUGHT ♦ YOU SOLD

50000

New York Telephone

8.000% 7-15-8

Callable 7-15-76 at 107.76

PRICE

10-26-11-3-71
MC DAY MO DAY NO
10-26-11-3-71

ACCOUNT NO
4 5478 1 45' 9

↑
SEE REVERSE SIDE
↑

52250.00 1200.00

STATE TAX SERV. CHARGE REG. FEE COMMISSION

Mr. Lester A. Lee
6101 Neilwood Dr.
Rockville, Maryland 20852

\$ 53450.00

NET AMOUNT *

45

* PAYMENT MAY BE MADE AT EITHER OUR MAIN OFFICE OR AT ANY BRANCH OFFICE.

3-8900

Fahnestock & Co.
(Established 1881)

110 WALL ST., NEW YORK, N.Y. 10005

BROKERS FOR YOU, OR AS PRINCIPALS WHEN INDICATED BY NUMBER 1 UNDER ♦, WE HAVE MADE THE FOLLOWING TRANSACTION

BOUGHT ♦ YOU SOLD

50000

Indiana Bell Telephone

3.125% 8-1-11

Callable 8-1-76 at 106.20

PRICE

10-26-11-3-71
MC DAY MO DAY NO
10-26-11-3-71

ACCOUNT NO
4 5478 1 45' 9

↑
SEE REVERSE SIDE
↑

52250.00 1200.00

STATE TAX SERV. CHARGE REG. FEE COMMISSION

Mr. Lester A. Lee

4-5478

\$ 53788.19

NET AMOUNT *

E 78

Plaintiffs' Exhibit 40

**Schedule Entitled: Lester Lee and Eric Lee Investment
of Proceeds of Distribution from Lee Industries 10/26/71**

LESTER LEE AND ERIC LEE
INVESTMENT OF PROCEEDS OF DISTRIBUTION
FROM LEE INDUSTRIES 10/26/71

1140

<u>INVESTMENT</u> <u>Description</u>	<u>Per Value</u>	<u>Interest Rate</u>	<u>Due Date</u>	<u>Rating</u>	<u>Cost</u>	<u>Accrued Interest to Date of Purchase</u>	<u>Net Cost</u>	<u>Yearly Amortization of Premium</u>	<u>Interest Income Collected</u>	
New England Telephone	\$50,000	8.2%	6-1-2004	AA	\$54,606.11	\$ 1,731.11	\$52,875	\$2,875	\$ 87.12	\$ 4,100
New York Telephone	50,000	8.0%	7-25-2000	AAA	53,450.00	1,200.00	52,250	2,250	77.58	4,000
Indiana Bell Telephone	50,000	8.125%	8-1-2011	AAA	53,788.19	1,038.19	52,750	2,750	68.75	4,062.50
South West Bell Telephone	50,000	8.250%	9-1-2000	AAA	53,583.42	710.42	52,875	2,875	99.13	4,125
	\$200,000				\$215,429.72				\$ 332.58	\$ 16,287.50

Certificate of Deposit
(Used to pay taxes in 1971)

70,000
\$285,429.72

Return on Investment

Yearly Interest Income	\$ 16,287.50	Each Received from Lee Industries	\$ 296,412
Yearly Amortization	<u>332.58</u>	Per above, each invested	<u>285,430</u>
Net Income	<u>\$ 15,954.92</u>	Funds Dispensed	<u>\$ 10,982</u>
Par Value of Bonds	<u>200,000</u>		
Return on bonds - Yield	<u>7.977%</u>		

11
79

Plaintiffs' Exhibit 41

**Document Entitled: Harold, Lester and Eric Lee
Calculation of Differential in Investment Yield-
Profit of the Corporation Versus Bond Yield**

HAROLD, LESTER AND ERIC LEE
 CALCULATION OF DIFFERENTIAL IN
 INVESTMENT YIELD - PROFIT OF CORPORATION
 VS. BOND YIELD

E 81

Net Profit of Capitol City Liquor Co., Inc.
 FYE July 31, 1970, Before State and Federal
 Income Taxes (From Capitol City Tax Return) \$372,324

One-Half of \$372,324 Comprises Plaintiffs' Share \$186,162

Return on Investment in Corporation

\$ 186,162 14.508%
 Funds Received of 1,283,168 Upon
 Liquidation of Corporation

Effective Rate of Return of \$1,283,168
 As per prior Exhibit * 7.977%

Loss on Return in Investment 6.531%

* Harold S. Lee Obtained
 Only 5.153%.

PLAINTIFF'S
 EXHIBIT
 8A DIST. COURT
 8/13/71

41-15

E 82

Plaintiffs' Exhibit 42

**Schedule Entitled: Harold, Lester and Eric Lee
Computation of Damages Based Upon Loss of Investment**

TT 42

HAROLD, LESTER AND ERIC LEE
COMPUTATION OF DAMAGES BASED UPON
LOSS OF INVESTMENT

	Loss On Return In Investment	Yearly Loss On Return In Investment	Loss Calculation from Sept. 1, 1971 to June 1, 1975			For Subsequent 10 Year Holding Period		Calculation to Age 65 of Lester Lee	
			Rate Per Month	Total (45 Mos.)		Total Damages	Discounted to 1/25	Total Damages	Discounted to 6/1/75
Fund Received From Liquidation of Corporation in 1971									
Harold Lee	\$690,344	*6.531%	\$45,086	\$3,757	\$169,065	\$450,660	\$295,825	\$1,082,064	\$455,593
Lester Lee	296,412	6.531%	19,357	1,613	72,585	193,570	127,008	464,568	195,602
Eric Lee	296,412	6.531%	19,357	1,613	72,585	193,570	127,008	464,568	195,602
Total Received	\$1,283,168	6.531%	\$83,800	\$6,983	\$314,235	\$838,000	\$549,841	\$2,011,200	\$846,797

* In Harold S. Lee's case, loss
was actually 9.355%

ST-24
EXHIBIT
B (Continued)

Plaintiffs' Exhibit 43

**Schedule Entitled: Harold, Lester and Eric Lee
Salaries and Executive Benefits**

43

HAROLD, ERIC AND LESTER LEE
SALARIES AND EXECUTIVE BENEFITS

Loss Calculation -- September 1, 1971 - June 1, 1975

	Rate Per Month	Number Of Months	Total	Reduced by Commissions and Salaries Earned	Difference Between Actual Earnings And Loss Calculation Earnings	Rate Per Month	10 Year Loss of Earnings	Discounted to 6/1/75 at 8-1/2%
Salaries & Benefits Based Upon Last Full Year of Operation								
Eric Lee	\$23,334	\$1,945	45	\$ 87,525	---	\$ 87,525	\$1,945	\$233,400
Lester Lee	23,334	1,945	45	525	\$13,752	73,773	1,639	196,680
Harold Lee	---	---	---	---	---	---	---	129,049
Total	<u>\$46,668</u>	<u>\$3,890</u>		<u>\$175,050</u>	<u>\$13,752</u>	<u>\$161,298</u>	<u>\$3,584</u>	<u>\$430,080</u>
								<u>\$282,191</u>

Pension Plan Yearly Benefits at Age 65

Amount Necessary Today to Purchase Annuity paying \$ 4 ~~per~~ yr. at Age 65

Eric Lee \$3,948
Lester Lee 3,948
Harold Lee ---

Total 27,896

\$24,500

TOTAL TEN YEAR LOSS OF SALARY AND EXECUTIVE BENEFITS \$306,691

EXHIBIT
43-
S.D. OF N.Y.
DIST. COURT
FEB 1976

85

Plaintiffs' Exhibit 44

**Schedule Entitled: Lee Industries, Inc. Determination
of Goodwill Factor**

II 44

E 87

LEE INDUSTRIES, INC.
DETERMINATION OF GOODWILL FACTOR

Dollar for Dollar on Net Assets	\$1,950,000
Goodwill	<u>600,000</u>
Total Amount Paid by Seagram	<u>\$2,550,000</u>

Determination of Goodwill was based
upon Lee Industries, Inc.'s
Taxable Federal Income, FYE 7/31/70

Goodwill Paid by Seagram \$600,000 1.714413 Times Earnings Before
Taxable Earnings Per Return 349.974 Federal Income Tax

PLAINTIFF'S

EX-
H. B. DIST. C
C. D. OF C

44 -X-

Plaintiffs' Exhibit 45

**Schedule Entitled: Capitol City Growth of
Goodwill and of Net Equity**

CAPITOL CITY GROWTH OF GOODWILL
AND OF NET EQUITY

E 89

<u>Fiscal Year Ending</u>	<u>Taxable Income Before Federal Income Taxes</u>	<u>Goodwill Based Upon 1.714413 Factor</u>	<u>Net Equity</u>	<u>Total Price</u>
7-31-63	\$133,886	\$229,536		
7-31-64	188,614	323,362		
7-31-65	243,607	417,643	\$1,252,056	\$1,669,099
7-31-66	268,214	459,830	1,398,156	1,857,986
7-31-67	254,503	436,323	1,538,324	1,974,647
7-31-68	256,907	440,445	1,671,696	2,112,141
7-31-69	283,735	486,439	1,814,372	2,300,811
7-31-70	349,974	600,000	1,950,000	2,550,000

PLAINTIFF'S

EXHIBIT

CITY COURT

OF GA.

415-48

E 90

Plaintiffs' Exhibit 46
Schedule Entitled: Projected Increase in
Goodwill Through Trial

π 46

PROJECTED INCREASE IN GOODWILL THROUGH TRIAL

E 91

First Year in Which Harold, Eric and Lester Lee
Were All at Capitol City Liquor Co., Inc. was 1965.

FYE 7/31/65 Goodwill was valued at \$417,643

Goodwill at Time of Sale 600,000

Net Increase in Goodwill 182,357

Period From 7/31/65 - 7/31/70 is 5 years.

Increase in Goodwill Per Year :

Net Increase in Goodwill over 5 Years 182,357 \$36,471 Increase
5 Goodwill
per year

From 9/1/71 to 6/1/75 Goodwill would have
Increased \$36,471 x 3 years, 9 months \$136,766

Distributorship in Question is Equivalent
to 50% of Capitol City: \$136,766 x 50% \$ 68,383

PLAINTIFF'S
EXHIBIT
DIST. COURT
OF N.Y.

46-~~48~~

E 92

Plaintiffs' Exhibit 47

**Schedule Entitled: Harold, Lester and Eric Lee
Federal and State Income Taxes If No Liquidation**

77-47

HAROLD, LESTER AD ERIC LEE
FEDERAL AND STATE INCOME AXES IF NO LIQUIDATION

Eric and Norma Lee

	<u>As Filed</u>	<u>If No Liquidation</u>	<u>Difference</u>
Taxable Income	\$118,487	\$26,342	
Federal Tax	49,723	6,503	\$43,220
State Tax	10,035	124	<u>9,911</u>
			\$53,131

Harold and Dorothy Lee

	<u>As Filed</u>	<u>If No Liquidation</u>	<u>Difference</u>
	\$181,004	\$75,348	
	91,648	30,331	\$61,317
	18,666	1,843	<u>16,823</u>
			\$78,140

Lester and Ruth Lee

	<u>As Filed</u>	<u>If No Liquidation</u>	<u>Difference</u>
	\$97,415	\$11,965	
	36,340	2,187	\$34,153
	5,239	182	<u>5,057</u>
			\$39,210

Additional Taxes Paid on Income
 Because of Liquidation

Eric and Norman Lee	\$ 53,131
Harold and Dorothy Lee	78,140
Lester and Ruth Lee	<u>39,210</u>
Total	\$170,481

Plaintiffs' Share of Tax
 that would have to be
 Paid by Corporation if
 There were no Liquidation
\$115,200

Additional Federal and
 State Income Taxes Paid
 Because of Liquidation \$ 55,281

U. S. DIST. COURT
 S. D. OF N. Y.

E 94

Plaintiffs' Exhibit 48
Chart Entitled: Total Damages

TT 48

TOTAL DAMAGES

E 95

TO JUNE 1, 1975

Lost Return on Investment	\$314,235	\$314,235
Lost Salary & Benefits	161,298	161,298
Loss of Increase in Goodwill	68,383	68,383
Increased Capital Gains Tax	<u>55,281</u>	<u>55,281</u>
	\$599,197	\$599,197

TEN YEAR HOLDING PERIOD

Lost Return on Investment	\$549,841
Lost Salary	282,191

TO RETIREMENT OF OLDER SON

Lost Return on Investment	\$846,797
Lost Salary (Limited to Ten Years.)	282,191
Lost Pension Benefits	24,500

Damages on 10 Year Holding Period \$1,431,229

Damages on Holding Period to Retirement of Older Son \$1,752,685

PLAINTIFFS
EXHIBIT
U.S. DIST. COURT
S.D. OF

48-12

E 96

Plaintiffs' Exhibit 49
Defendant's Answers to Plaintiffs' Interrogatories
No. 1 and 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14
E 97

HAROLD S. LEE, ERIC LEE and :
LESTER LEE,

~~Plaintiffs~~ : 72 Civ. 232 (CIVT)

~~against~~ : DEFENDANT'S ANSWERS
H. E. SEAGRAM & SONS, INC., : TO PLAINTIFFS'
Defendant. : INTERROGATORIES

49-12

BEST COPY AVAILABLE

INTERROGATORY 1.

For each year from 1965 through 1974, state the number of franchises that have been transferred, with the location of each such franchise and the date of transfer (including the month for the years 1970 and 1971).

ANSWER TO INTERROGATORY 1.

Defendant has knowledge, information or belief as to the sale of distributorships holding one or more franchises from defendant's sales divisions (but not necessarily granting the right to use the trade name "Seagram" as opposed to the trade names or marks of other of defendant's alcoholic beverages such as "Calvert" or "Four Roses") on or about the dates indicated as follows:

<u>Distributorship</u>	<u>Location</u>	<u>Date</u>
Capitol City	Washington, D. C.	Sept. 1970
Distillers Distr.	Minneapolis, Minn.	Oct. 1970
Richard	Albuquerque, N.M.	Sept. 1970
Peerless	New York, N.Y.	Jan. 1970
Badger	Fond du Lac, Wis.	Oct. 1970
Pacific Crown	San Francisco, Cal.	May 1971
Standard Wine	Peoria, Ill.	Oct. 1971
Savannah	Savannah, Ga.	March 1971
Pioneer	Atlanta, Ga	Dec. 1971
Bevway	Honolulu, Hawaii	April 1971
Kemp Boone	Glen Burnie, Md.	April 1971
Perrone Wine	Elizabeth, N.J.	1971
DePere	DePere, Wis.	Sept. 1971
Andrew Rosia, Inc.	Eureka, Cal.	1972
S&S Distr.	Galesburg, Ill.	1972
Dave Strieffer	New Orleans, La.	1972

<u>Distributorship</u>	<u>Location</u>	<u>Date</u>
Best Brands	Las Vegas, Nev.	1972
J & R Liquor	Jacksonville, Fla.	1973
National	Indianapolis, Ind.	1973
Southern	Jeffersonville, Ind.	1973
New England Liquor	Holyoke, Mass.	1973
O.R.S.	Kansas City, Mo.	1973
Carden State (Crown)	New Jersey	1973
Capitol	Trenton, N.J.	1973
Eddy & Fisher	Providence, R.I.	1973
Standard Food	New York, N.Y.	1974
Columbia Liquors	Ft. Wayne, Ind.	1974
State Distributors	Junction City, Kan.	1974
Sunflower Sales	Parsons, Kan.	1974
C-K Distributors	Kansas City, Kan.	1974
Bohemian Distr.	Joliet, Ill.	1974
Franchise Distr.	Denver, Colo.	1974
Spengler & Sons	Honolulu, Hawaii	1974
Kansas City Wholesale	Kansas City, Mo.	1974
Beck Distr.	Indianapolis, Ind.	1974
Stadium Distributors	Indianapolis, Ind.	1974
E & L Wholesale	St. Joseph, Mo.	1974
Freeman Distr.	Arlington, Va.	1974
	(distributes wines only)	
Globe Distributing	Washington, D. C.	1974
Dakota Beverage	Fargo, N.D.	1974
Brewers Distr.	Peoria, Ill.	1974
G.A.M. Co.	Portland, Ore.	1974
	(distributes wines only)	
National	Newark, N.J.	1974
General Wine	New Haven, Conn.	1974 41

Accurate and complete information as to the sale of such distributorships in years prior to 1970 is either unavailable to defendant or, to the extent it is possibly available based upon the recollections of many of defendant's employees working at many different locations around the country, would be so difficult to obtain as to be unreasonably burdensome in relation to its relevancy to any issue in this lawsuit.

INTERROGATORY 2.

With respect to each distributorship identified in answering Interrogatory 1 and located at the following places (which plaintiffs have advised defendant were the only locations acceptable to them among those identified), state its annual net sales and after-tax profits for the full fiscal year closest to the stated year of its sale for which defendant has such information: Minneapolis, Minn.; San Francisco, Cal.; Atlanta, Ga.; New Orleans, La.; Las Vegas, Nev.; Jacksonville, Fla.; Holyoke, Mass.; Kansas City, Mo.; Providence, R. I.; Trenton, N. J.; Kansas City, Kan.; Denver,

Colo.; Newark, N. J.; New Haven, Conn.; and the Garden State-Crown locations in New Jersey.

E 100

ANSWER TO INTERROGATORY 2.

<u>Distributor and Location</u>	<u>Date of Transfer</u>	<u>Net Sales</u>	<u>After-Tax Profit (or Loss)</u>
Distillers Distrs., Minneapolis	Oct., 1970	\$20,757,000	\$343,837
Pacific Crown, San Francisco*	May, 1971	25,471,000	53,540
Pioneer, Atlanta	Dec., 1971	5,772,000	32,111
Dave Strieffer, New Orleans**	1972	4,612,000	234,000
Best Brands, Las Vegas	1972	9,197,000	(380,023)
J & R Liquor, Jacksonville	1973	12,030,000	68,855
New England Liquor, Holyoke	1973	8,476,000	(29,148)
O.R.S., Kansas City, Mo.	1973	3,194,000	12,851
Garden State (Crown), N. J.	1973	20,044,000	108,000
Eddy & Fisher, Providence	1973	6,451,000	53,735
Capitol, Trenton	1973	7,680,000	73,514
C-K Distributors, Kansas City, Kan.	1974	- 1,563,000	27,863
Franchise Distributors, Denver	1974	- 27,149,000	225,374
Kansas City Wholesale, Kansas City, Mo.	1974	2,744,000	15,000
National, Newark, N.J.	1974	7,049,000	18,135
General Wine, New Haven	1974	6,058,000	(39,386)
Freeman Distr., ***	1974		
Arlington, Va.			
***G.A.M., Portland, Ore.	1974		

18 * Reported figures reduced deficit to \$120,237.

** Reported figures are consolidated figures for Dave Strieffer's parent and its other subsidiaries, as well as Dave Strieffer.

*** These companies sold wines only. No figures are available for them.

E 101

Plaintiffs' Exhibit 50
Stipulation and Protective Order

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E 102

-----x

PLAINTIFFS HAROLD S. LEE, ERIC LEE and :
LESTER LEE, :
Plaintiffs, : 72 Civ. 232 (CHT)
-against- : STIPULATION AND
PH E. SEAGRAM & SONS, INC., : PROTECTIVE ORDER
Defendant. :
-----x

EXHIBIT
~~U.S. DIST. COURT
S.D. OF N.Y.~~

50-XD
-----x

Subject to the approval of the Court, it is hereby stipulated by the undersigned attorneys for the parties, that this protective order shall be entered with respect to certain financial data furnished by defendant in answer to plaintiffs' Interrogatory 2, as sworn to on June 11, 1975, and thereafter filed with the Court:

1. Said answer to plaintiffs' Interrogatory 2 and pages of the trial transcript or other portions of the record placed on file with the Court containing references, if any, to the financial data therein shall be sealed and not available to the public.

2. The parties may refer to such financial data in open court during the course of the trial for the purpose of examining witnesses and arguing to the jury, but the Court will instruct the jurors not to disclose or discuss such financial data other than solely in connection with their deliberations among themselves in reaching a verdict herein

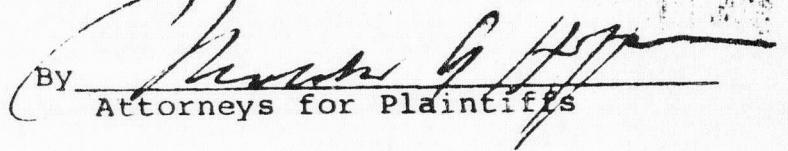
3. Plaintiffs' counsel will not disclose such financial data to third parties except that, to the extent necessary to prepare and try their case, they may discuss such financial data with the plaintiffs and/or such other

E 103

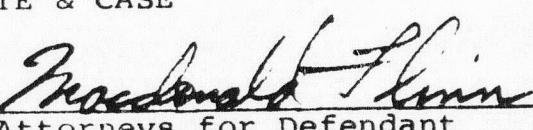
persons working directly with counsel in so representing plaintiffs, but counsel are to advise all such persons that by the provisions of this order they are not to disclose such financial data to any other person.

4. Where necessary for counsel for the parties to cite such financial data in any briefs or other papers filed with this Court or any reviewing court, they will do so only in those copies actually filed with the court and served upon each other and plaintiffs' counsel agree to acquiesce in defendant's application to any reviewing court to have such financial data sealed and treated on an in camera basis by such court.

Law Firm of Malcolm A. Hoffmann

By 
Attorneys for Plaintiffs

WHITE & CASE

By 
Attorneys for Defendant

So Ordered:

U. S. D. J.

E 104

Plaintiffs' Exhibit 51

**Letter Agreement Between Manufacturers Hanover Trust
Company and Joseph E. Seagram & Sons, Inc.
(November 21, 1972)**

PLAINTIFF'S

E 105
Joseph E. Seagram & Sons, Inc.

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

JUN 13 1975

EXECUTIVE OFFICES
375 PARK AVENUE • NEW YORK, N.Y. 10022

51/ ~~51~~

November 21, 1972

Manufacturers Hanover Trust Company
350 Park Avenue
New York, N.Y. 10022

Gentlemen:

This Agreement is being delivered to you by the undersigned in order to induce you to make loans from time to time to Capital City Liquor Corporation ("CCLC") up to a principal amount not to exceed \$1,000,000 at any one time outstanding, to be evidenced by promissory notes having a 90-day maturity and which may be renewed from time to time on terms satisfactory to you (the "Obligations").

We own 100% of issued and outstanding Preferred Stock of CCLC. In order to induce you to extend the credit to CCLC, which is described in the preceding paragraph, we hereby agree with you as follows:

1. So long as any Obligation shall be owed to you by CCLC, we will continue to own, beneficially and of record, not less than 100% of the issued and outstanding Preferred Stock of CCLC, free and clear of any lien, encumbrance, charge or any security interest whatsoever.

2. So long as any Obligation shall be owed to you by CCLC, we shall cause CCLC to maintain at all times a tangible net worth (determined in accordance with generally accepted accounting principles) of not less than \$300,000; and, in order to enable CCLC to do so, we shall from time to time, whenever the same shall be required, either make loans to CCLC (which are subordinated to the Obligations in a manner satisfactory to you), make capital contributions to CCLC or purchase additional Preferred Stock of CCLC.

3. The undersigned hereby consents and agrees that you may at any time and from time to time, without notice to or further assent from the undersigned, and without in any way affecting or releasing the liability of the undersigned hereunder, (i) extend or change the time of payment or manner, place or terms of payment of any Obligation, and (ii) exchange, sell, release, surrender or otherwise deal with any collateral which may at any time secure any of the Obligations.

4. If you shall at any time bring an action against the undersigned to recover any loss, damage or expense incurred by you as a result of a default by CCLC with respect to an Obligation, and if at any time during the period that such loss, damage or expense was incurred, the undersigned shall have been in default in the performance of its obligations under Paragraph 2 hereof, it shall be conclusively presumed for all purposes of such action that all of such loss, damage or expense resulted directly from the failure of the undersigned to meet its obligations under said Paragraph 2 hereof.

5. The undersigned represents and warrants that:

- (a) it has full power, authority and legal right to execute and deliver this agreement and to perform and observe the terms and provisions hereof;
- (b) the execution, delivery and performance by the undersigned of this agreement have been duly authorized by all necessary corporate action, require no approval of or registration with any governmental body, authority, bureau or agency, and do not violate or contravene any law or any order of any court or governmental agency or the certificate of incorporation or by-laws of the undersigned or any indenture, agreement or other instrument to which the undersigned is a party or by which it or any of its properties may be bound; and
- (c) this agreement is a legal, valid and binding obligation of the undersigned enforceable in accordance with its terms.

6. This agreement shall be binding upon the undersigned, its successors and assigns and shall inure to the benefit of and be enforceable by you, your successors and assigns. This agreement shall be deemed to be a contract under the law of the State of New York and for all purposes shall be construed in accordance with the law of said State.

7. None of the terms, provisions or covenants contained herein may be waived, altered, modified or amended except in writing duly signed by you.

Very truly yours,

JOSEPH E. SEAGRAM & SONS, INC.

By

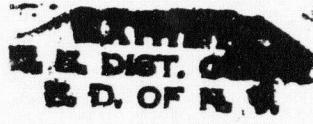
E 107

Defendant's Exhibit B

Letter to Jack Yogman from Arthur L. Lee (April 10, 1971)

Mr. Jack Yognan, V.P.
Joseph E. Seagram & Sons
375 Park Ave.
New York, N.Y.

Wednesday, April 10, 1971,
DEFENDANTS



E 108

Dear Jack,

B - 10

Just a brief note to thank you for the time and effort you put in on my behalf.

As I mentioned during our talk, I would like very much to remain a part of the Seagram operation. My loyalty and enthusiasm stay with Seagram.

Should anything come up in the near future, I would appreciate hearing from you.

It was good seeing you again.

Sincerely,

Arthur L. Lee.

Arthur L. Lee
11612 Donville Dr.
Rockville, Md 20852
ZIP CODE

E 109

Defendant's Exhibit C

Internal Revenue Form 966 for Lee Industries, Inc.
(October 27, 1970)

RETURN OF INFORMATION TO BE FILED BY CORPORATIONS WITHIN 30 DAYS
AFTER ADOPTION OF RESOLUTION OR PLAN OF DISSOLUTION,
OR COMPLETE OR PARTIAL LIQUIDATION
(Under Section 6043 of the Internal Revenue Code)

E 110

Please Type or Print Plainly

Name of corporation

Lee Industries, Inc. (formerly Capital City Liquor Co., Inc.)

Employer identification number

53-0086281

Number and street

4201 Cathedral Ave., N.W.

Post office, county, State, country

Washington, D.C. 20016, U.S.A.

1. Date incorporated

September 17, 1941

2. Place incorporated

Delaware

3. District Director with whom last income tax return was filed and taxable year covered thereby

District Director

Philadelphia, Pa.

Taxable year

7/31/70

4. Date of adoption of resolution or plan of dissolution, or complete or partial liquidation

September 3, 1970

Common

Preferred

5. Total shares outstanding

10,000

None

6. Dates of any amendments to plan of dissolution

None

7. If this return is in respect of an amendment of or supplement to a resolution or plan previously adopted and a return has previously been filed in respect of such resolution or plan, give date such return was filed

Date

8. LIQUIDATION WITHIN ONE CALENDAR MONTH. If the corporation is a domestic corporation, and the plan of liquidation provides for a distribution in complete cancellation or redemption of all the capital stock of the corporation and for the transfer of all the property of the corporation under the liquidation entirely within one calendar month pursuant to section 343, and any shareholder claims the benefit of such section, then the following information must also be submitted:

- A description of the voting power of each class of stock.
- A list of all the shareholders owning stock at the time of the

adoption of the plan of liquidation, together with the number of shares of each class of stock owned by each shareholder, the certificate numbers thereof, and the total number of votes to which entitled on the adoption of the plan of liquidation; and

(a) A list of all corporate shareholders as of January 1, 1954, together with the number of shares of each class of stock owned by each such shareholder, the certificate numbers thereof, the total number of votes to which entitled on the adoption of the plan of liquidation, and a statement of all changes in ownership of stock by corporate shareholders between January 1, 1954, and the date of the adoption of the plan of liquidation, both dates inclusive.

Attach hereto as a part of this return a duly certified copy of the resolution or plan, together with all amendments thereto or supplements thereto, if not heretofore filed.

SIGNATURE AND VERIFICATION

I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been made on proper authorization, has been examined by me, and is, to the best of my knowledge and belief, a true, correct, and complete return, made in good faith, pursuant to the requirements of section 6043 of the Internal Revenue Code and the regulations issued thereunder.

October 27, 1970

(Date)

(Signature of officer)

Lee Industries, Inc.

(Name of corporation)

(Title)

CORPORATE
SEAL

INSTRUCTIONS

1. This form is to be used by a corporation rendering a return of information under section 6043 of the Internal Revenue Code. Such return shall be filed with the district director for the district in which the income tax return of the corporation is filed, within 30 days after the adoption of a resolution or plan, including any amendment thereto or supplement thereto, for or in respect of the dissolution of the corporation or the liquidation of the whole or any part of its capital stock.

2. All the information called for by this form shall be supplied in detail. Use additional sheets, if necessary. If a return has already

been filed in respect of any resolution or plan, a return in respect of an amendment or supplement thereto will be deemed sufficient if it gives the date the prior return was filed and contains a duly certified copy of such amendment or supplement and all other information required by this form which was not given in such prior return.

3. The return must be signed either by the president, vice president, treasurer, assistant treasurer or chief accounting officer, or by any other corporate officer (such as tax officer) who is authorized to sign. A receiver, trustee, or assignee must sign any return which he is required to file on behalf of a corporation.

E 111

Defendant's Exhibit D

**Certified Copy of Resolution of Board of Directors of
Lee Industries, Inc. (September 3, 1970)**

EXHIBIT

DEFENDANT'S

CERTIFIED COPY OF RESOLUTION OF BOARD
OF DIRECTORS OF LEE INDUSTRIES, INC.,
A DELAWARE CORPORATION, FORMERLY KNOWN AS
CAPITOL CITY LIQUOR CO., INC.

E 112

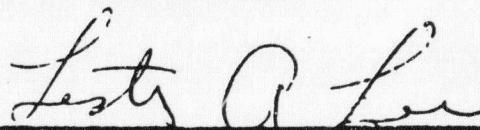
D - X
I, Lester A. Lee, Secretary of Lee Industries, Inc.,
a Delaware Corporation, formerly known as Capitol City Liquor Co.,
Inc., do hereby certify that the following are true and exact
excerpts from the minutes of a special meeting of the Board of
Directors of said corporation held on September 3, 1970,
1970, all of said Board of Directors being present and voting and
which vote has not been rescinded:

"RESOLVED, That in the judgment of the Board
of Directors of the corporation it is deemed
advisable that the corporation be liquidated
and dissolved; and it was further unanimously

"RESOLVED, That the proper officers of the cor-
poration be and they hereby are authorized to
take the necessary steps to liquidate and dis-
solve the corporation; and it was further
unanimously

"RESOLVED, That after providing for all proper
debts of the corporation and also for possible
unknown contingent debts, the remaining assets
of the corporation be distributed to the stock-
holders of the corporation; and it was further
unanimously

"RESOLVED, That the proper officers of the cor-
poration be and they hereby are authorized and
directed to pay all such fees and taxes and to
do or cause to be done such other acts and
things as they may deem necessary or proper
in order to carry out the liquidation and
dissolution of the corporation, in complete
exchange for the outstanding capital stock
of the corporation within the twelve month
period beginning September 3, 1970,
1970, pursuant to Section 337 of the Internal
Revenue Code."


LESTER A. LEE
Secretary

Defendant's Exhibit E

Plaintiffs' Verified Answers to Defendant's Interrogatories
Numbered 1, 3, 4, 5, 8, 9, 10, 14, 18, 25, 28, 30, 31 and 35

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
HAROLD S. LEE, ERIC LEE and
LESTER LEE, :

Plaintiffs, :

72 Civ. 232 (CHT)

- against - :

Plaintiffs' Verdict
PLAINTIFFS' ANSWERS
TO DEFENDANT'S
INTERROGATORIES

JOSEPH E. SEAGRAM & SONS, INC., :

Defendant. :

----- X

Definitions

"Distributorship" shall mean a wholesale business of supplying alcoholic beverages to retailers for resale to consumers and to outlets for the on-premises consumption by consumers of such products, together with its assets.

"Distributor" shall mean any/or all of the owners or principals of a distributorship.

"Franchise" shall mean the right granted by a distiller, importer or other supplier of alcoholic beverages to distributors to deal in and market one or more brands of such beverages.

"Plaintiffs" shall mean Harold S. Lee, Eric Lee, and Lester Lee, both singly and collectively and including any representative acting in their behalf, except for present counsel.

"Lee" shall mean plaintiff Harold S. Lee.

"The three Lees" shall mean plaintiffs.

INTERROGATORY 1.

State the basis for the allegation in paragraph 7 of the Amended Complaint that Harold S. Lee, Lester Lee, and Eric Lee purchased their stock in Capitol City in order "to satisfy Seagram's desire to have a strong and friendly distributor outlet in the District of Columbia area for Seagram products," including the facts on which plaintiffs predicate this allegation.

ANSWER TO INTERROGATORY 1.

Lee was, and was known by defendant to be, an unusually competent businessman possessing a great deal of expertise in the business of liquor distribution. Lee was also personally known to, and friendly with, many officers of defendant. Moreover, he was known to be loyal to Seagram products, having been with the company for almost 30 years, including 4-1/2 years as head of Seagram's important Calvert Division. Defendant was particularly pleased to have a person of Lee's caliber, and one who was both generally well-regarded and friendly to defendant on both a personal and commercial basis, as a principal in the sole distributorship for most Seagram products in such an important territory as the District of Columbia.

Plaintiffs base this allegation on the numerous contacts they had with defendant over the years, from the time Lee first became an employee of defendant, up through the time shortly before the original Complaint in this action was filed.

INTERROGATORY 3.

State whether the contract alleged in the First Claim of the Amended Complaint and realleged in the succeeding Claims thereof by which defendant purportedly agreed to obtain and relocate the plaintiffs in a "similar distributorship" within "a reasonable time" was oral or written.

(a) If written, state the substance of all the terms and conditions of that contract, its date, the signatories, and in whose custody, possession or control all such writings claimed to memorialize that contract and to bind defendant are now (in lieu of so stating, copies of each such writing may be attached to your answers); and

(b) If oral, identify all communications between the plaintiffs and any representative of the defendant which plaintiffs claim establish the existence of the alleged contract, stating as to each such communication the date, the place, the persons present, and the full substance of such communication by each person (including whether or not there was any reference to the time within which defendant was to perform its alleged obligation; the geographic location of the distributorship to be obtained for plaintiffs; for what brands of alcoholic beverages that distributorship was to have franchises; whether that distributorship was to have exclusive franchises in its trade area; the sales volume, profit and growth trend of that distributorship; the price to be paid by plaintiffs for such distributorship; any specific distributorships which were then for sale or were believed might become available for sale).

ANSWER TO INTERROGATORY 3.

This contract was oral.

(b)(i). In or about early June 1970 Lee visited Jack Yogman (hereinafter "Yogman"), then defendant's Executive Vice President, at Seagram's offices in New York City. Lee stated he had heard that Seagram desired to acquire a distributorship for Chester Carter. Lee expressed a willingness to sell on the part of the owners of Capitol City, but only on Seagram's promise to

provide another Seagram distributorship for the three Lees at a different location. Lee specifically stated he would not discuss this proposed sale further unless Seagram agreed to provide another Seagram distributorship for the three Lees in the event of a sale. In response to this Yogman immediately told Lee there was an exclusive Seagram distributorship for sale in Rhode Island, and also a Seagram distributorship for sale in Minneapolis; Yogman recommended both those houses to Lee, and stated that Seagram would force the owner of the Minneapolis house to sell. The only persons present were Lee and Yogman. There was no explicit reference to the period of time which Seagram would have to relocate the three Lees, to the location of the distributorship, to which brands it would carry, or to its profits, sales volume, growth trend or price. Lee stated to Yogman that the three Lees desired a distributorship with an exclusive territory, if possible. Other terms were implied by the circumstances surrounding the transaction, including the long history of prior dealings between the parties.

(ii). In or about the middle of June 1970, John Barth, then defendant's Vice President, visited Lee at Capitol City in Washington, D.C. Barth stated that Seagram was interested in purchasing Capitol City. Having previously obtained from Yogman, who was Barth's superior, a commitment to provide another distributorship for the three Lees if Capitol City was sold, Lee did not seek such a commitment from Barth. Barth did not indicate whether he had discussed that matter with Yogman. Nothing was said about the amount of time Seagram would have to provide a new

distributorship for the three Lees, or about the details of the new distributorship, or whether any acceptable distributorships were available. Only Barth and Lee were present at this meeting.

(iii). In or about late June 1970 Lee, and other owners of Capitol City, visited Seagram's offices in New York City. There they negotiated the price to be paid for Capitol City with a Seagram team apparently headed by Mr. Fieldsteel. A price was agreed upon and soon thereafter papers were drawn. In this conversation the matter of the new distributorship was not discussed.

(iv). On several occasions subsequent to September 30, 1970, and prior to June 22, 1971, Yogman admitted to Lee in Seagram's New York offices that Seagram was obligated to provide another Seagram house for the three Lees. Nothing was said on these occasions about size, location, brands carried, price, sales volume, profit, growth trend, or exclusivity of territory. On most such occasions Lee and Yogman were alone. On one such visit Yogman admitted to Lee and Eric Lee that he had a "commitment" to the three Lees, and on this occasion Lee informed him that if the three Lees did not have their capital re-invested within one year of Capitol City's sale, they would suffer adverse tax consequences. On some occasions these conversations were transacted by telephone. During this period, Lee asked many times about the availability of houses, but was continually put off by Yogman. On a few such occasions Yogman mentioned the names or locations of Seagram distributorships which were available.

(v). On one occasion between September 1970 and May 1971, Lee spoke with Edgar Bronfman in Seagram's offices in New York City. Edgar Bronfman reaffirmed Seagram's obligation to provide a Seagram distributorship for the three Lees. Nothing more was said as to this matter in this conversation. No one was present except Lee and Edgar Bronfman.

(vi). On June 22, 1971, the three Lees visited Yogman in his New York City office. When Lee informed Yogman that the three Lees would suffer adverse tax consequences if the new distributorship were not provided by July 31, 1971, Yogman reaffirmed Seagram's commitment to provide another Seagram house, and informed them he would regard July 31, 1971, as his "deadline", and would have the new distributorship for the three Lees by then. No discussion was had as to details concerning this matter, although the identity of the available houses may have been discussed.

(vii). At no time prior to the filing of the original Complaint in this action did any representative of Seagram deny Seagram's obligation to provide a new distributorship for the three Lees.

INTERROGATORY 4.

State fully the extent of the obligation plaintiffs claim the alleged contract placed upon defendant to obtain "a similar distributorship" for the plaintiffs, including but not limited to such factors as the geographic location of the distributorship; for what brands of alcoholic beverages the distributorship was to have franchises; whether the distributorship was to have exclusive franchises in its trade area; the sales volume, profit and growth trend of the distributorship; the price to be paid by plaintiffs for the distributorship; when the "reasonable time" within which defendant was obligated to obtain a distributorship for plaintiffs

expired; and state the facts upon which plaintiffs predicate these claims.

ANSWER TO INTERROGATORY 4

In the event that Capitol City was sold to Seagram, defendant was obligated under the oral agreement to provide for plaintiffs within a reasonable time a Seagram distributorship, exclusive if possible, whose profit was very roughly of the same order of magnitude as one-half that of Capitol City. It was implied in this agreement, by the circumstances surrounding it (including the long history of prior dealings between the parties) that the distributorship would be located in a suitable place; that, in terms of number and customer appeal, it would carry significant Seagram brands; that it be profitable or had the potential for sizeable profit; and that the three Lees would pay no more than a reasonable price for the distributorship. There was no discussion regarding the sales volume, or when the reasonable time would expire. The three Lees did, however, on June 22, 1971, inform Yogman that the tax advantage on their proceeds from the sale of Capitol City would expire on or about July 31, 1971; and prior to June 22, 1971, they informed Yogman that their tax advantage would expire one year after their sale of Capitol City.

Plaintiffs predicate these claims on the circumstances surrounding the transaction, including the fact that the three Lees, and in particular Lee, had previously dealt with defendant on numerous occasions over many years in many business transactions, including Lee's long tenure as a responsible high official of Seagram, and had generally found defendant to be reasonable and fair in its prior business dealings with the Lees.

State whether plaintiffs claim the alleged contract obligated defendant

- (a) To obtain for plaintiffs an existing, viable distributorship, including franchises held, inventory, physical assets (including warehouse, equipment, trucks, and so on), employees and good will, or obligated defendant merely to grant one or more of its franchises to plaintiffs to assist them in establishing a new distributorship not theretofore in business;
- (b) To obtain for plaintiffs a distributorship even though none of the owners of distributorships holding a franchise or franchises from defendant was interested in selling;
- (c) To obtain for plaintiffs a distributorship even though none of the distributors holding a franchise or franchises from defendant was willing to sell upon the terms and conditions plaintiffs were willing and able to offer;
- (d) To obtain for plaintiffs a distributorship acceptable to them as determined in their sole discretion;
- (e) To obtain for plaintiffs the first available distributorship meeting the criteria set forth in plaintiff's answer to Interrogatory 3 regardless of any interest (other than improperly preventing its purchase by plaintiffs) defendant might have in that particular distributorship's being available to some other purchaser;
- (f) To do more than give notice to plaintiffs of the availability of a distributorship meeting the criteria set forth in plaintiffs' answer to Interrogatory 3 in the event that plaintiffs, for any reason not attributable to defendant, found such distributorship unacceptable to them or were unable to negotiate its purchase on terms and conditions mutually acceptable to plaintiffs and the owners of that distributorship; and
- (g) State the facts upon which plaintiffs predicate these claims.

ANSWER TO INTERROGATORY 5.

- (a) The oral contract obligated defendant to provide for plaintiff an existing distributorship, including all assets and good will except for non-Seagram franchises.
- (b) Both Yogman's and the three Lees's experience in the liquor distributorship business was more than sufficient for

them to realize that it was virtually impossible for such a set of circumstances to exist as to every desirable Seagram distributorship. Seagram had over 400 houses in the United States, and Yogman at one point informed the Lees that typically eight or nine Seagram houses change ownership each year. Accordingly, this was never considered by plaintiffs and the point is moot.

(c) Plaintiffs take no position on this point because it never entered their thinking. The three Lees were willing, ready and able to pay a reasonable price, and desirable Seagram houses change hands continually. In fact, Yogman had informed the three Lees that eight or nine Seagram houses change hands in a typical year.

(d) No.

(e) Yes, to the extent Seagram could lawfully do so.

(f) Yes.

(g) Plaintiffs base these claims on the circumstances surrounding this transaction, including their past history of dealing with and for defendant, as described in Answer to Interrogatory 3, supra.

INTERROGATORY 8.

Identify each distributor not identified in answering Interrogatory 7 contacted by the plaintiffs for the purpose of exploring the possibility of plaintiffs' purchasing his distributorship and as to each

(a) Identify all communications through the present between such distributor and the plaintiffs relating, directly or indirectly, to the sale of his distributorship, stating as to each such communication the date, the parties, whether written or oral and the full substance of such communications by each party (in lieu of so stating as to each written communication, a copy thereof may be attached to your answers); and

(b) What negotiations took place and whether the terms asked by such distributor were acceptable to or agreed to (specify which) by the plaintiffs.

ANSWER TO INTERROGATORY 8.

Lee contacted several other persons who either owned interests in Seagram distributorships or might be knowledgeable as to which Seagram distributorships were available. Except as described infra, it is not known whom Lee contacted. Lee contacted Joe Medulla in Tampa, Florida and Harry Maret in Georgia. It is believed that these communications were by telephone, and that Lee asked whether the other party knew of any Seagram houses for sale. The date of these communications is not known.

In or about February 1971 Lee telephoned Jerry Laskin, owner of a Seagram house in Holyoke, Mass. Laskin expressed an interest in selling his house. In or about February 1971 Lee and Lester Lee visited the Laskin house in Holyoke. Despite the fact that the annual net profit before taxes was only about \$200,000, Laskin wanted about \$1,000,000 for good will. The Lees informed him that the figure for good will was too high, and attempted to negotiate it down. The Lees rejected Laskin's offer, but remained in telephone communication with him for several months thereafter on the chance he might significantly modify his position. The only written communication which plaintiffs recall was composed of financial data shown to the Lees, and which was either never given to them, or was returned to Laskin shortly thereafter.

In or about early August 1973, Andrew Zingale, then a Seagram executive, telephoned Lee to inform him that Messrs. Katz and Elion, owners of a Seagram distributorship called Country

Club Soda, Inc., in Springfield, Mass., were interested in selling. Zingale was interested in purchasing an interest in that house, if the three Lees would purchase a majority interest. The three Lees and Zingale met in Springfield in or about August 1973 with Mr. Elion and his lawyer, Pearl Wallace. Also, on one occasion Eric Lee spoke by telephone with Ms. Wallace. There were several elements of the offer to which the Lees could not agree. One was the fact that Elion was to remain on the payroll for five years at a high salary; another was the fact that the owners wanted good will of about six times the last year's after tax earnings; and a third was the fact that the company's growth was primarily in its soda packaging and distributing activities, rather than in liquor distribution. The Lees communicated their rejection to the offer through Zingale in September 1973. There were no writings involved except for a financial statement shown by Zingale to the Lees; this statement had been sent by the distributor to Seagram, and was either not given to the Lees, or was returned shortly thereafter to Zingale.

On July 2, 1974 Lester and Eric Lee met with Mrs. Muriel Fine, a principal of Colonial Liquors, a Seagram house in Brockton Mass. Her accountant was also present, and Mrs. Fine provided the Lees with very detailed financial information. The Lees, while willing to pay at least book value plus three times the distributorship's last year's after tax earnings, were unable to come to an agreement with Mrs. Fine on price.

INTERROGATORY 9.

Identify each owner of a business other than an alcoholic beverage distributorship contacted by the plaintiffs for the purpose of exploring the possibility of plaintiffs' purchasing his business and as to each

(a) Identify all communications through the present between such owner and the plaintiffs relating, directly or indirectly, to the sale of his business, stating as to each such communication the date, the parties, whether written or oral and the full substance of such communication by each party (in lieu of so stating as to each written communication, a copy thereof may be attached to your answers); and

(b) What negotiations took place and whether the terms asked by such owner were acceptable to or agreed to (specify which) by the plaintiffs.

ANSWER TO INTERROGATORY 9.

In winter or spring of 1971 the three plaintiffs met, at the Washington, D.C. offices of Arent, Fox, Kintner, Plotkin & Kahn, with Alan Bratman, the principal of Market Tire Co., located in or near the District of Columbia. Plaintiffs' accountant met subsequently with an accountant representing Market Tire. Plaintiffs examined financial data supplied by Market Tire. No acceptable terms of sale were presented. So far as plaintiffs recall, the only writings involved were those embodying financial data, and none are now in the possession, custody or control of plaintiffs.

In Spring 1971 plaintiffs met with Samuel Littman, President of American Paint Company, at its plant on V Street, N.E., Washington, D.C. No acceptable terms of sale were presented. No writings other than those embodying financial data were involved, and none are now in the possession, custody or control of plaintiffs.

INTERROGATORY 10.

State whether plaintiffs know of any distributorship which, during the period which plaintiffs claim was the "reasonable time" within which the alleged contract obligated defendant to obtain a distributorship for them, held one or more franchises from the defendant but not from any other supplier of alcoholic beverages, and if so, identify by name and location each such distributorship.

ANSWER TO INTERROGATORY 10.

Plaintiffs know of no such distributor.

Interrogatory 14.

In alleging in paragraph 27 of the Amended Complaint that defendant unlawfully withheld "consent to plaintiffs' attempt to purchase the Rhode Island distributorship," do plaintiffs claim that (a) the alleged withholding of consent was the breach of contract upon which they sue, (b) defendant was obligated to secure that particular distributorship for them, and (c) defendant would have fulfilled its alleged contractual obligation to them by consenting? If so, state the facts upon which plaintiffs predicate such claim.

ANSWER TO INTERROGATORY 14.

- (a) Seagram's withholding of this consent, either per se or in conjunction with other acts of defendant, constituted a breach of the oral contract;
- (b) Defendant was obligated to provide for the three

Lees that distributorship or another of similar or better caliber, and was obligated, at the very least, not to impede plaintiffs' efforts to obtain such a distributorship;

(c) Defendant would not have completely discharged its obligations under the contract by consenting to the three Lees' purchase of that distributorship.

INTERROGATORY 18.

State the basis for the allegation in paragraph 26 of the Amended Complaint that "Seagram's promise to relocate the Lees was made before . . . the sale of Capitol City's assets and good will," including the date such promise was made, by whom it was made, and the identity of each person present.

ANSWER TO INTERROGATORY 18.

This promise was made by Yogman in or about early June 1970 in his office in New York City; only Lee and Yogman were present. It was reiterated as described in Answer to Interrogatory 17, supra.

ANSWER TO INTERROGATORY 24.

The entire proceeds from the sale of Capitol City's assets and good will were paid into Lee Industries, Inc., and remained in Lee Industries, Inc. until it was divested of substantially all of its assets.

INTERROGATORY 25.

State who all the shareholders of Lee Industries, Inc. were both at the time any or all of the proceeds from the sale of Capitol City's assets and good will were paid into it and at the time it was divested of substantially all of its assets.

ANSWER TO INTERROGATORY 25.

At the time that Lee Industries, Inc. acquired proceeds

from the sale of Capitol City's assets and good will, its shares were owned by Harold S. Lee, Lester Lee, Eric Lee, Henry D. Lee, Arthur Lee, and Arthur Lee as custodian for his two minor children. At the time Lee Industries, Inc. was divested of substantially all of its assets, its shares were owned by these same persons.

INTERROGATORY 28.

With respect to the allegations in paragraph 26 of the Amended Complaint, state whether any stockholders of Lee Industries, Inc., other than the plaintiffs incurred additional taxes because of its inactivity up to the time it was divested of substantially all of its assets.

ANSWER TO INTERROGATORY 28.

On information and belief, no stockholders of Lee Industries, Inc., other than the three Lees incurred additional

taxes because of its inactivity up to the time at which it was divested of substantially all of its assets.

INTERROGATORY 30.

(a) In connection with the allegation in paragraph 8 of the Amended Complaint that Capitol City "could not in any way sell, transfer or assign [its] franchise without the express advance consent of defendant," state whether the plaintiffs claim that such a condition was not imposed upon Capitol City by any of its suppliers of alcoholic beverages other than defendant, and if so, specify each of Capitol City's suppliers which did not impose such a condition upon it.

(b) State whether the plaintiffs claim that such a condition is not commonly imposed upon distributors by suppliers of alcoholic beverages other than defendant and, if so, the basis for such claim, including the facts on which plaintiffs predicate that claim.

ANSWER TO INTERROGATORY 30.

(a) Other large suppliers imposed such a condition on

Capitol City; however, no other supplier was in a position to affect the survival of Capitol City.

(b) Such a condition is commonly imposed by large suppliers on distributors.

INTERROGATORY 31.

(a) State the basis for the allegation in paragraph 33 of the Amended Complaint that "oral agreements between Seagram and its distributors deprived the distributors of the exercise of their rights to transfer their franchises without Seagram's consent, and constitute unreasonable restraints of trade within the meaning of Section 1 of the Sherman Act, 15 U.S.C. §1," including the facts upon which plaintiffs predicate that claim and the application of the law to those facts.

(b) Do the plaintiffs make the same claim with respect to the provision in defendant's written distributor-franchise contracts that those contracts shall not be assignable except as provided in writing signed by defendant?

(c) State whether the plaintiffs claim that they have been injured in their business or property by any other alleged violation of the antitrust laws by defendant and, if so, state the basis for that claim, including the facts upon which plaintiffs predicate that claim and the application of the law to those facts.

ANSWER TO INTERROGATORY 31.

(a) Plaintiffs have learned that the agreements referred to here are not oral, but are written, and are part of the franchise agreements. See Answer to Interrogatory 29, supra.

(b) Yes. It is with respect to the provision in defendant's written franchise contracts that paragraph 33 of the Amended Complaint refers; these agreements were erroneously referred to as oral.

(c) The Amended Complaint does not state a claim for any other violation of the antitrust laws.

INTERROGATORY 35.

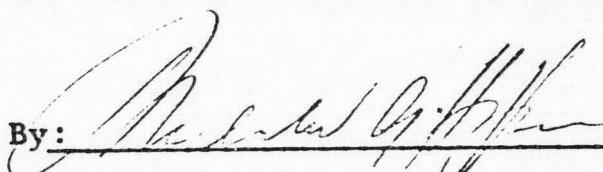
By what date do plaintiffs claim the alleged agreement was made?

ANSWER TO INTERROGATORY 35.

While this is a matter of law, plaintiffs believe the contract was made when the sale of Capitol City was consummated.

Dated: New York, New York
June 13, 1975

LAW FIRM OF MALCOLM A. HOFFMANN

By: 

Attorneys for Plaintiffs
12 East 41st Street
New York, New York 10017
(212) 635-0535

To:

WHITE & CASE
Attorneys for Defendant
14 Wall Street
New York, New York 10005

VERIFICATION

E 136

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

LESTER LEE, being duly sworn, deposes and says:

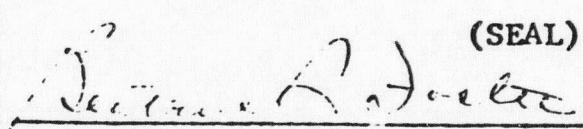
1. I am one of the plaintiffs in this action.
2. I am also a personal representative of the estate of Harold S. Lee, a plaintiff in this action, and I am authorized to verify these Answers in that representative capacity on behalf of said estate.
3. I have read defendant's Interrogatories. These Answers thereto are true to my knowledge or are answered on information and belief, and as to those, I believe them to be true on the basis of information supplied to me.

Lester G. Lee

Lester Lee

Sworn to before me this
16th day of June, 1975

(SEAL)


Notary Public

BEATRICE S. FOSTER
Notary Public, State of New York
No. 31-064395
Qualified: New York County
Commissioned: June 1, 1975

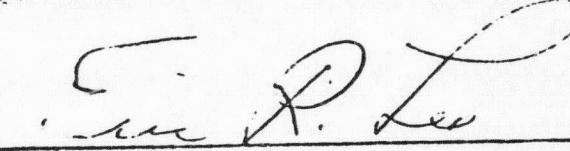
VERIFICATION

E 137

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

ERIC LEE, being duly sworn, deposes and says:

1. I am one of the plaintiffs in this action.
2. I am also a personal representative of the estate of Harold S. Lee, a plaintiff in this action, and I am authorized to verify these Answers in that representative capacity on behalf of said estate.
3. I have read defendant's Interrogatories. These Answers thereto are true to my knowledge or are answered on information and belief, and as to those, I believe them to be true on the basis of information supplied to me.


Eric Lee

Sworn to before me this
16th day of June 1975

(SEAL)



Notary Public

BEATRICE S. FOSTER
Notary Public, State of New York
No. 31-4364395
Qualified in New York County
Commissioned April 30, 1976. 6

E 138

Defendant's Exhibit X
Lawyer Sach's Suggested Numbers

1942-1943 LOSSES PER
100 MEMBERS

372,317

194,750
177,567

83,783
1,283,167 = 6.5%

DEFENDANT'S

EXHIBIT
DIST. COURT
D. OF N. Y.

X-8

One Copy
Service of ~~copies of the~~
within ~~of Appendix~~ is hereby
admitted this ~~17th~~ day of
~~Sept. 1976~~
Signed ~~Malcolm A. Hoffman~~
Attorney for ~~Plaintiff - Appellee~~